

AMENDED IN ASSEMBLY AUGUST 13, 2008

AMENDED IN ASSEMBLY AUGUST 7, 2008

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN ASSEMBLY JUNE 5, 2008

AMENDED IN SENATE MAY 5, 2008

AMENDED IN SENATE APRIL 16, 2008

SENATE BILL

No. 1779

Introduced by Committee on Business, Professions and Economic Development (Senators Ridley-Thomas (Chair), Aanestad, Calderon, Corbett, Denham, Florez, Harman, Simitian, and Yee)

March 13, 2008

An act to amend Sections 27, 101, 128.5, 144, 146, 149, 683, 733, 800, 801, 801.01, 803, 2089.5, 2096, 2102, 2107, 2135, 2168.4, 2175, 2221, 2307, 2335, 2486, 2488, 2570.5, 2570.6, 2570.7, 2760.1, 3503, 3517, 3518, 3625, 3633.1, 3635, 3636, 3685, 3750.5, 3753.5, 3773, 4022.5, 4027, 4040, 4051, 4059.5, 4060, 4062, 4076, 4081, 4110, 4111, 4126.5, 4161, 4174, 4231, 4301, 4305, 4329, 4330, 4857, 4980.03, 4980.30, 4980.43, 4982, 4989.54, 4992.3, 4996.2, 4996.17, 4996.18, 4996.23, 5801, 6534, 6536, 6561, 7616, 7629, 8740, and 8746 of, to amend and renumber Section 2570.185 of, to add Sections 2169, 2570.36, 4036.5, 4980.04, 4990.09, 5515.5, and 9855.1.5 to, and to repeal Sections 2172, 2173, 2174, 4981, 4994.1, 4996.20, 4996.21, and 6761 of, the Business and Professions Code, to amend Section 8659 of the Government Code, ~~and~~ to amend Sections 8778.5, 11150, and 11165 of the Health and Safety Code, *and to amend Section 14132.100 of the Welfare and Institutions Code*, relating to professions and vocations, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1779, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

(1) Existing law provides for the licensure and regulation of various professions and vocations by boards and bureaus within the Department of Consumer Affairs.

Existing law requires certain boards and bureaus to disclose on the Internet information on licensees.

This bill would require the Cemetery and Funeral Bureau to disclose on the Internet information on specified licensees.

(2) Under existing law, if, upon investigation, a specified state regulatory agency has probable cause to believe that a person is advertising in a telephone directory with respect to the offering or performance of services, without being properly licensed by or registered with that agency, the agency is authorized to issue a specified citation.

This bill would add the Physical Therapy Board of California to those authorized agencies.

Existing law requires specified licensure boards to report to the State Department of Health Care Services the name and license number of a person whose license has been revoked, suspended, surrendered, made inactive, or otherwise restricted, and requires specified licensure boards to create and maintain a central file of the names of all persons who hold a license from the board, and to prescribe and promulgate written complaint forms, as specified.

This bill would also subject the California Board of Occupational Therapy to these requirements, and would subject the Acupuncture Board to the requirement to create and maintain a central file of the names of its licensees and to prescribe and promulgate written complaint forms, as specified.

Existing law requires specified healing arts licensees, insurers providing professional liability insurance to those licensees, and governmental agencies that self-insure those licensees to report settlements over \$30,000 to the licensee's board if the settlement is based on the licensee's alleged negligence, error, or omission in practice.

This bill would instead require that report if the settlement is based on the licensee's alleged negligence, error, or omission in practice in California.

(3) Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of

California, in the Department of Consumer Affairs. The act requires each applicant for a physician and surgeon's license to meet specified training and examinations requirements, authorizes the appointment of examination commissioners, requires that examinations be conducted in English, except as specified, allows the examinations to be conducted in specified locations, requires notice of examinations to contain certain information, and requires examination records to be kept on file for a period of 2 years or more. The act authorizes a person whose certificate has been surrendered, revoked, suspended, or placed on probation, as specified, to petition for reinstatement of the certificate or modification of the penalty if specified requirements are met. Under existing law, any person who meets certain eligibility requirements, including, but not limited to, the requirement that the person is academically eminent, as defined, may apply for a special faculty permit that authorizes the holder to practice medicine, without a physician's and surgeon's certificate, within the medical school itself and certain affiliated institutions.

This bill would revise the training requirements for a physician and surgeon's license, and would delete the requirement of passage of a clinical competency examination that is applicable to certain applicants. The bill would delete the provisions related to the appointment of examination commissioners, examinations being conducted in English and examination interpreters, the location of examinations, and examination notices. The bill would also delete the requirement that the board keep examination records on file for at least 2 years, and would instead require the board to keep state examination records on file until June 2069. The bill would revise the requirements for a petition for reinstatement or modification, as specified. The bill would require the holder of a special faculty permit to meet the same continuing medical education requirements as the holder of a physician's and surgeon's certificate and would also require a special faculty permitholder to show that he or she meets these requirements at the time of permit renewal.

Existing law provides for the licensure and regulation of podiatrists by the Board of Podiatric Medicine in the Medical Board of California. Existing law authorizes the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 90 calendar days. Existing law requires an applicant for a certificate to practice podiatric medicine to meet specified application procedures.

This bill would instead authorize the Board of Podiatric Medicine to issue an order of nonadoption of a proposed decision or interim order of the Medical Quality Hearing Panel within 100 calendar days. The bill would revise the application procedures for a certificate to practice podiatric medicine, as specified.

(4) Existing law, the Occupational Therapy Practice Act, provides for the licensure of occupational therapists and the certification of occupational therapy assistants by the California Board of Occupational Therapy. Existing law requires an occupational therapist to document his or her evaluation, goals, treatment plan, and summary of treatment in a patient record. Existing law authorizes a limited permit to practice occupational therapy to be granted if specified education and examination requirements are met, but provides that if the person fails to qualify for or pass the first announced licensure examination, all limited permit privileges automatically cease upon due notice. Existing law requires an applicant applying for a license or certification to file with the board a written application provided by and satisfactory to the board, showing that he or she meets certain requirements, including, but not limited to, successful completion of an educational program's academic requirements approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE) and successful completion of a period of supervised fieldwork experience. Existing law also specifies the curriculum requirements for an education program for occupational therapists and occupational therapy assistants.

This bill would require an occupational therapy assistant to document in a patient record the services provided to the patient, and would require an occupational therapist or assistant to document and sign a patient record legibly. The bill would revise the provisions related to limited permit privileges to instead provide that a person's failure to pass the licensure examination during the initial eligibility period would cause the privileges to automatically cease upon due notice. The bill would require that the applicant successfully complete the educational program's academic requirements approved by the board and accredited by ACOTE, or accredited or approved by the American Occupational Therapy Association's (*AOTA*) predecessor organization, or approved by AOTA's Career Mobility Program. The bill would also revise those curriculum requirements for an educational program. The bill would authorize an applicant who is a graduate of an educational program and is unable to provide evidence of having met the curriculum requirements

to demonstrate passage of a specified examination as evidence of having successfully satisfied the curriculum requirements. The bill would require an applicant who completed AOTA's Career Mobility Program to demonstrate participation in the program and passage of a specified examination as evidence of having successfully satisfied the educational program and curriculum requirements. The bill would revise the supervised fieldwork experience requirement. The bill would require a licensee to report to the board violations of the Occupational Therapy Practice Act by licensees or applicants for licensure and to cooperate with the board, as specified.

(5) Existing law, the Nursing Practice Act, provides for the licensure and regulation of nurses by the Board of Registered Nursing in the Department of Consumer Affairs. Existing law authorizes a registered nurse whose license is revoked or suspended, or who is placed on probation, to petition for reinstatement of his or her license or modification of the penalty after a specified time period.

This bill would require a petition by a registered nurse whose initial license application is subject to a disciplinary decision to be filed after a specified time period from the date upon which his or her initial license was issued.

(6) Existing law, the Physician Assistant Practice Act, provides for the licensure and regulation of physician's assistants by the Physician Assistant Committee of the Medical Board of California. Existing law authorizes the committee to grant interim approval to an applicant for licensure as a physician assistant.

This bill would delete that authority to grant interim approval and would make conforming changes.

(7) Existing law, the Naturopathic Doctors Act, provides for the licensure and regulation of naturopathic doctors by the Bureau of Naturopathic Medicine in the Department of Consumer Affairs. Existing law authorizes the bureau to grant a license to a person meeting certain requirements who has graduated from training prior to 1986 if the application is received prior to 2008, and requires licensees to obtain continuing education through specified continuing education courses. Existing law requires a licensee on inactive status to meet certain requirements in order to restore his or her license to active status, including paying a reactivation fee.

This bill would require an application for licensure by a person who graduated from training prior to 1986 to be received by the bureau prior to 2011, and would revise the standards for continuing education

courses. The bill would delete the requirement that a licensee on inactive status pay a reactivation fee in order to restore his or her license to active status, and would instead require him or her to be current with all licensing fees.

Existing law authorizes the Director of Consumer Affairs to establish an advisory council related to naturopathic doctors composed of members who receive no compensation, travel allowances, or reimbursement of expenses.

This bill would delete the requirement that the members of the advisory council receive no compensation, travel allowances, or reimbursement of expenses.

(8) Existing law provides for the licensure and regulation of respiratory care practitioners by the Respiratory Care Board of California. Existing law authorizes the board to deny, suspend, or revoke a license to practice respiratory therapy if the licensee obtains or possesses in violation of the law, except as directed by a licensed physician and surgeon, dentist, or podiatrist, or furnishes or administers or uses a controlled substance or dangerous drug, as defined. Existing law authorizes the board to direct a practitioner or applicant who is found to have violated the law to pay the costs of investigation and prosecution. Existing law requires an applicant for renewal of a respiratory care practitioner license to notify the board of specified information.

This bill would revise the board's authority to deny, suspend, or revoke a license to practice respiratory therapy for obtaining, possessing, using, administering, or furnishing controlled substances or dangerous drugs, and would also authorize the board to deny, suspend, or revoke a license if a licensee or applicant for a license uses, while licensed or applying for a license, any controlled substance, dangerous drug, or alcoholic beverage to an extent or manner dangerous or injurious to himself or herself, the public, or another person, or to the extent that it impairs his or her ability to practice safely. The bill would also authorize the board to direct a practitioner or applicant who is found to have violated a term or condition of board probation to pay the costs for investigation and prosecution. The bill would require an applicant for renewal of a respiratory care practitioner license to cooperate in furnishing additional information to the board, as requested, and would provide that, if a licensee fails to furnish the information within 30 days of a request, his or her license would become inactive until the information is received.

Existing law exempts certain healing arts practitioners from liability for specified services rendered during a state of war, state of emergency, or local emergency.

This bill would also exempt respiratory care practitioners from liability for the provision of specified services rendered during a state of war, state of emergency, or local emergency.

(9) Existing law, the Pharmacy Law, the knowing violation of which is a crime, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy in the Department of Consumer Affairs.

Existing law authorizes a pharmacy to furnish dangerous drugs only to specified persons or entities, and subjects certain pharmacies and persons who violate the provision to specified fines.

This bill would provide that any violation of this provision by any person or entity would subject the person to the fine.

Existing law prohibits a person from acting as a wholesaler of any dangerous drug or device without a license from the board. Existing law requires a nonresident wholesaler, as defined, to be licensed prior to shipping, mailing, or delivering dangerous drugs or dangerous devices to a site located in this state.

This bill would modify that definition and would also require a nonresident wholesaler to be licensed prior to selling, brokering, or distributing dangerous drugs or devices within this state. By subjecting these nonresident wholesalers to these licensure requirements which include, among other things, payment of specified fees, the bill would increase that part of the revenue in the Pharmacy Board Contingent Fund that is continuously appropriated and would thereby make an appropriation.

Existing law requires a pharmacy or pharmacist who is in charge of or manages a pharmacy to notify the board within 30 days of termination of employment of the pharmacist-in-charge or acting as manager, and provides that a violation of this provision is grounds for disciplinary action.

This bill would instead provide that failure by a pharmacist-in-charge or a pharmacy to notify the board in writing that the pharmacist-in-charge has ceased to act as pharmacist-in-charge within 30 days constitutes grounds for disciplinary action, and would also provide that the operation of the pharmacy for more than 30 days without the supervision or management by a pharmacist-in-charge constitutes grounds for disciplinary action. The bill would revise the definition of

a designated representative or designated representative-in-charge, and would define a pharmacist-in-charge.

Existing law makes a nonpharmacist owner of a pharmacy who commits acts that would subvert or tend to subvert the efforts of a pharmacist-in-charge to comply with the Pharmacy Law guilty of a misdemeanor.

This bill would apply this provision to any pharmacy owner.

The bill would require the board, during a declared federal, state, or local emergency, to allow for the employment of a mobile pharmacy in impacted areas under specified conditions, and would authorize the board to allow the temporary use of a mobile pharmacy when a pharmacy is destroyed or damaged under specified conditions. The bill would authorize the board, if a pharmacy fails to provide documentation substantiating continuing education requirements as part of a board investigation or audit, to cancel an active pharmacy license and issue an inactive pharmacy license, and would allow a pharmacy to reobtain an active pharmacy license if it meets specified requirements.

Because this bill would impose new requirements and prohibitions under the Pharmacy Law, the knowing violation of which would be a crime, it would impose a state-mandated local program.

Existing law requires pharmacies to provide information regarding certain controlled substances prescriptions to the Department of Justice on a weekly basis.

This bill would also require a clinic to provide this information to the Department of Justice on a weekly basis.

(10) Existing law, the Veterinary Medicine Practice Act, provides for the licensure and regulation of veterinarians by the Veterinary Medical Board. Existing law prohibits the disclosure of information about an animal receiving veterinary services, the client responsible for that animal, or the veterinary care provided to an animal, except under specified circumstances, including, but not limited to, as may be required to ensure compliance with any federal, state, county, or city law or regulation.

This bill would specify that such disclosure is prohibited except as may be required to ensure compliance with the California Public Records Act.

~~(10)–~~

(11) Existing law provides for the licensure and regulation of educational psychologists, clinical social workers, and marriage and family therapists by the Board of Behavioral Sciences. Existing law

generally provides for a system of citations and fines that are applicable to healing arts licensees.

This bill would prohibit the board from publishing on the Internet final determinations of a citation and fine of \$1,500 or less for more than 5 years from the date of issuance of the citation.

Existing law authorizes the board to deny a license or registration or to suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct and existing law specifies that unprofessional conduct includes, but is not limited to, the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any specified substances or any combination thereof.

This bill would delete that provision specifying that unprofessional conduct includes the conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any specified substances or any combination thereof. The bill would specify that unprofessional conduct includes engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as specified. The bill would also specify, with respect to educational psychologists, that unprofessional conduct includes using or offering to use drugs in performing educational psychology and failing to comply with telemedicine requirements.

Existing law requires applicants for a clinical social worker license to furnish evidence satisfactory to the board that he or she has, among other things, 2 years of supervised postmaster's degree experience. Existing law requires this experience to meet various criteria including, but not limited to, at least 3,200 hours of postmaster's degree supervised experience providing clinical social work services, and of those hours, at least 1,700 hours gained under the supervision of a licensed clinical social worker, and the remaining hours under the supervision of a board-acceptable licensed mental health professional. Existing law also requires this experience to include at least one hour of direct supervisor contact, as defined, for a minimum of 104 weeks. Existing law provides various alternative criteria sufficient to satisfy the experience requirement.

This bill would revise the definition of one hour of direct supervisor contact and would delete those various alternative criteria.

~~(H)~~

(12) Existing law, the Professional Fiduciaries Act, provides for the licensure and regulation of professional fiduciaries by the Professional Fiduciaries Bureau within the Department of Consumer Affairs until July 1, 2011. Existing law also requires applicants to provide certain boards and bureaus with a full set of fingerprints for the purpose of conducting criminal history record checks. Existing law requires licensees to file and the bureau to maintain certain information in each licensee's file, including whether the licensee has ever been removed as a fiduciary by a court for breach of trust committed intentionally, with gross negligence, in bad faith, or with reckless indifference, or demonstrated a pattern of negligent conduct, as specified.

This bill would require the bureau to disclose on the Internet information on its licensees and would require applicants to the bureau to comply with that fingerprint requirement. The bill would require licensees to file and the bureau to maintain information regarding whether the licensee has ever been removed for cause or resigned as a conservator, guardian, trustee, or personal representative, as well as various other details relating to that removal or resignation. The bill would also make a conforming change.

~~(12)–~~

(13) Existing law, the Architects Practice Act, provides for the licensure and regulation of architects by the California Architects Board. Under existing law, the board is composed of 5 architect members and 5 public members. Existing law requires that each appointment to the board expire on June 30 of the 4th year following the year in which the previous term expired.

This bill would modify the term length for certain members of the board.

~~(13)–~~

(14) Existing law provides a comprehensive scheme for the certification and regulation of interior designers. Under existing law, a stamp from an interior design organization certifies that an interior designer has passed a specified examination and that he or she has met certain other education or experience requirements, such as a combination of interior design education and diversified interior design experience that together total at least 8 years.

This bill would revise that provision by specifying that an interior designer may meet these requirements by having at least 8 years of interior design education, or at least 8 years of diversified interior design

experience, or a combination of interior design education and diversified interior design experience that together total at least 8 years.

~~(14)–~~

(15) Existing law, the Professional Engineers Act, provides for the registration of professional engineers and the licensure of land surveyors by the Board for Professional Engineers and Land Surveyors. Under existing law, in determining the qualifications of an applicant for registration or licensure, a majority vote of the board is required.

This bill would delete that majority vote requirement.

~~(15)–~~

(16) Existing law, the Funeral Directors and Embalmers Law, provides for the licensure and regulation of funeral establishments and directors by the Cemetery and Funeral Bureau. Under existing law, every funeral establishment holding a funeral director's license on December 31, 1996, shall, upon application and payment of fees for renewal, be issued a funeral establishment license.

This bill would delete that provision.

~~(16)–~~

(17) The Electronic and Appliance Repair Dealer Registration Law provides for registration and regulation of service contractors by the Bureau of Electronic and Appliance Repair in the Department of Consumer Affairs. Existing law makes it unlawful to act as a service contractor unless that person maintains a valid registration.

This bill would make it an infraction to violate that provision. The bill would also make conforming changes. By creating a new crime, the bill would impose a state-mandated local program.

~~(17)–~~

(18) *Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons. Existing law provides that federally qualified health center services and rural health clinic services, as defined, are covered benefits under the Medi-Cal program, to be reimbursed, to the extent that federal financial participation is obtained, to providers on a per-visit basis. For those purposes, a "visit" is defined as a face-to-face encounter between a patient of a federally qualified health center or a rural health clinic and a "physician," which is defined to include a medical doctor, osteopath, podiatrist, dentist, optometrist, and chiropractor.*

This bill would instead provide that the term “physician” includes a physician and surgeon, podiatrist, dentist, optometrist, and chiropractor.

(19) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(18)–~~

(20) This bill would incorporate additional changes to Section 27 of the Business and Professions Code, proposed by both this bill and SB 1402, to be operative only if SB 1402 and this bill are both enacted, each bill amends that section, and this bill is enacted after SB 1402. This bill would also provide that changes to Section 801 of the Business and Professions Code proposed by this bill shall not become operative if SB 1402 and this bill are both enacted, each bill amends that section, and this bill is enacted after SB 1402.

~~(19)–~~

(21) This bill would incorporate additional changes to Section 101 of the Business and Professions Code proposed by this bill, SB 823, and SB 853, to be operative only if this bill and either or both SB 823 and SB 853 are enacted and this bill is enacted last.

~~(20)–~~

(22) This bill would incorporate additional changes to Sections 146 and 149 of the Business and Professions Code, proposed by both this bill and SB 823, to be operative only if SB 823 and this bill are both enacted, each bill amends the respective sections, and this bill is enacted after SB 823.

(23) *This bill would incorporate additional changes to Section 2221 of the Business and Professions Code, proposed by both this bill and AB 2445, to be operative only if AB 2445 and this bill are both enacted, each bill amends that section, and this bill is enacted after AB 2445.*

~~(21)–~~

(24) This bill would incorporate additional changes to Section 4980.43 of the Business and Professions Code, proposed by both this bill and SB 1218, to be operative only if SB 1218 and this bill are both enacted, each bill amends the respective sections, and this bill is enacted after SB 1218. This bill would also provide that changes to Section 4980.03 of the Business and Professions Code proposed by this bill shall not become operative if SB 1218 and this bill are both enacted, each bill amends that section, and this bill is enacted after SB 1218.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 27 of the Business and Professions Code is amended to read:

27. (a) Every entity specified in subdivision (b) shall provide on the Internet information regarding the status of every license issued by that entity in accordance with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public information to be provided on the Internet shall include information on suspensions and revocations of licenses issued by the entity and other related enforcement action taken by the entity relative to persons, businesses, or facilities subject to licensure or regulation by the entity. In providing information on the Internet, each entity shall comply with the Department of Consumer Affairs Guidelines for Access to Public Records. The information may not include personal information, including home telephone number, date of birth, or social security number. Each entity shall disclose a licensee's address of record. However, each entity shall allow a licensee to provide a post office box number or other alternate address, instead of his or her home address, as the address of record. This section shall not preclude an entity from also requiring a licensee, who has provided a post office box number or other alternative mailing address as his or her address of record, to provide a physical business address or residence address only for the entity's internal administrative use and not for disclosure as the licensee's address of record or disclosure on the Internet.

(b) Each of the following entities within the Department of Consumer Affairs shall comply with the requirements of this section:

(1) The Acupuncture Board shall disclose information on its licensees.

(2) The Board of Behavioral Sciences shall disclose information on its licensees, including marriage and family therapists, licensed clinical social workers, and licensed educational psychologists.

1 (3) The Dental Board of California shall disclose information
2 on its licensees.

3 (4) The State Board of Optometry shall disclose information
4 regarding certificates of registration to practice optometry,
5 statements of licensure, optometric corporation registrations, branch
6 office licenses, and fictitious name permits of its licensees.

7 (5) The Board for Professional Engineers and Land Surveyors
8 shall disclose information on its registrants and licensees.

9 (6) The Structural Pest Control Board shall disclose information
10 on its licensees, including applicators, field representatives, and
11 operators in the areas of fumigation, general pest and wood
12 destroying pests and organisms, and wood roof cleaning and
13 treatment.

14 (7) The Bureau of Automotive Repair shall disclose information
15 on its licensees, including auto repair dealers, smog stations, lamp
16 and brake stations, smog check technicians, and smog inspection
17 certification stations.

18 (8) The Bureau of Electronic and Appliance Repair shall disclose
19 information on its licensees, including major appliance repair
20 dealers, combination dealers (electronic and appliance), electronic
21 repair dealers, service contract sellers, and service contract
22 administrators.

23 (9) The Cemetery and Funeral Bureau shall disclose information
24 on its licensees, including cemetery brokers, cemetery salespersons,
25 cemetery managers, crematory managers, cemetery authorities,
26 crematories, cremated remains disposers, embalmers, funeral
27 establishments, and funeral directors.

28 (10) The Professional Fiduciaries Bureau shall disclose
29 information on its licensees.

30 (11) The Contractors' State License Board shall disclose
31 information on its licensees in accordance with Chapter 9
32 (commencing with Section 7000) of Division 3. In addition to
33 information related to licenses as specified in subdivision (a), the
34 board shall also disclose information provided to the board by the
35 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

36 (12) The Board of Psychology shall disclose information on its
37 licensees, including psychologists, psychological assistants, and
38 registered psychologists.

39 (c) "Internet" for the purposes of this section has the meaning
40 set forth in paragraph (6) of subdivision (e) of Section 17538.

1 SEC. 1.5. Section 27 of the Business and Professions Code is
2 amended to read:

3 27. (a) Every entity specified in subdivision (b) shall provide
4 on the Internet information regarding the status of every license
5 issued by that entity in accordance with the California Public
6 Records Act (Chapter 3.5 (commencing with Section 6250) of
7 Division 7 of Title 1 of the Government Code) and the Information
8 Practices Act of 1977 (Chapter 1 (commencing with Section 1798)
9 of Title 1.8 of Part 4 of Division 3 of the Civil Code). The public
10 information to be provided on the Internet shall include information
11 on suspensions and revocations of licenses issued by the entity
12 and other related enforcement action taken by the entity relative
13 to persons, businesses, or facilities subject to licensure or regulation
14 by the entity. In providing information on the Internet, each entity
15 shall comply with the Department of Consumer Affairs Guidelines
16 for Access to Public Records. The information may not include
17 personal information, including home telephone number, date of
18 birth, or social security number. Each entity shall disclose a
19 licensee's address of record. However, each entity shall allow a
20 licensee to provide a post office box number or other alternate
21 address, instead of his or her home address, as the address of
22 record. This section shall not preclude an entity from also requiring
23 a licensee, who has provided a post office box number or other
24 alternative mailing address as his or her address of record, to
25 provide a physical business address or residence address only for
26 the entity's internal administrative use and not for disclosure as
27 the licensee's address of record or disclosure on the Internet.

28 (b) Each of the following entities within the Department of
29 Consumer Affairs shall comply with the requirements of this
30 section:

31 (1) The Acupuncture Board shall disclose information on its
32 licensees.

33 (2) The Board of Behavioral Sciences shall disclose information
34 on its licensees, including marriage and family therapists, licensed
35 clinical social workers, and licensed educational psychologists.

36 (3) The Dental Board of California shall disclose information
37 on its licensees.

38 (4) The State Board of Optometry shall disclose information
39 regarding certificates of registration to practice optometry,

1 statements of licensure, optometric corporation registrations, branch
2 office licenses, and fictitious name permits of its licensees.

3 (5) The Board for Professional Engineers and Land Surveyors
4 shall disclose information on its registrants and licensees.

5 (6) The Structural Pest Control Board shall disclose information
6 on its licensees, including applicators, field representatives, and
7 operators in the areas of fumigation, general pest and wood
8 destroying pests and organisms, and wood roof cleaning and
9 treatment.

10 (7) The Bureau of Automotive Repair shall disclose information
11 on its licensees, including auto repair dealers, smog stations, lamp
12 and brake stations, smog check technicians, and smog inspection
13 certification stations.

14 (8) The Bureau of Electronic and Appliance Repair shall disclose
15 information on its licensees, including major appliance repair
16 dealers, combination dealers (electronic and appliance), electronic
17 repair dealers, service contract sellers, and service contract
18 administrators.

19 (9) The Cemetery and Funeral Bureau shall disclose information
20 on its licensees, including cemetery brokers, cemetery salespersons,
21 cemetery managers, crematory managers, cemetery authorities,
22 crematories, cremated remains disposers, embalmers, funeral
23 establishments, and funeral directors.

24 (10) The Professional Fiduciaries Bureau shall disclose
25 information on its licensees.

26 (11) The Contractors' State License Board shall disclose
27 information on its licensees in accordance with Chapter 9
28 (commencing with Section 7000) of Division 3. In addition to
29 information related to licenses as specified in subdivision (a), the
30 board shall also disclose information provided to the board by the
31 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

32 (12) The Board of Psychology shall disclose information on its
33 licensees, including psychologists, psychological assistants, and
34 registered psychologists.

35 (13) The State Board of Chiropractic Examiners shall disclose
36 information on its licensees.

37 (14) The Board of Registered Nursing shall disclose information
38 on its licensees.

1 (15) The Board of Vocational Nursing and Psychiatric
2 Technicians of the State of California shall disclose information
3 on its licensees.

4 (16) The Veterinary Medical Board shall disclose information
5 on its licensees and registrants.

6 (17) The Physical Therapy Board of California shall disclose
7 information on its licensees.

8 (18) The California State Board of Pharmacy shall disclose
9 information on its licensees.

10 (19) The Speech-Language Pathology and Audiology Board
11 shall disclose information on its licensees.

12 (20) The Respiratory Care Board of California shall disclose
13 information on its licensees.

14 (21) The California Board of Occupational Therapy shall
15 disclose information on its licensees.

16 (22) The Bureau of Naturopathic Medicine shall disclose
17 information on its licensees.

18 (c) “Internet” for the purposes of this section has the meaning
19 set forth in paragraph (6) of subdivision (e) of Section 17538.

20 SEC. 2. Section 101 of the Business and Professions Code is
21 amended to read:

22 101. The department is comprised of:

23 (a) The Dental Board of California.

24 (b) The Medical Board of California.

25 (c) The State Board of Optometry.

26 (d) The California State Board of Pharmacy.

27 (e) The Veterinary Medical Board.

28 (f) The California Board of Accountancy.

29 (g) The California Architects Board.

30 (h) The Bureau of Barbering and Cosmetology.

31 (i) The Board for Professional Engineers and Land Surveyors.

32 (j) The Contractors’ State License Board.

33 (k) The Bureau for Private Postsecondary and Vocational
34 Education.

35 (l) The Structural Pest Control Board.

36 (m) The Bureau of Home Furnishings and Thermal Insulation.

37 (n) The Board of Registered Nursing.

38 (o) The Board of Behavioral Sciences.

39 (p) The State Athletic Commission.

40 (q) The Cemetery and Funeral Bureau.

- 1 (r) The State Board of Guide Dogs for the Blind.
- 2 (s) The Bureau of Security and Investigative Services.
- 3 (t) The Court Reporters Board of California.
- 4 (u) The Board of Vocational Nursing and Psychiatric
- 5 Technicians.
- 6 (v) The Landscape Architects Technical Committee.
- 7 (w) The Bureau of Electronic and Appliance Repair.
- 8 (x) The Division of Investigation.
- 9 (y) The Bureau of Automotive Repair.
- 10 (z) The State Board of Registration for Geologists and
- 11 Geophysicists.
- 12 (aa) The Respiratory Care Board of California.
- 13 (ab) The Acupuncture Board.
- 14 (ac) The Board of Psychology.
- 15 (ad) The California Board of Podiatric Medicine.
- 16 (ae) The Physical Therapy Board of California.
- 17 (af) The Arbitration Review Program.
- 18 (ag) The Committee on Dental Auxiliaries.
- 19 (ah) The Hearing Aid Dispensers Bureau.
- 20 (ai) The Physician Assistant Committee.
- 21 (aj) The Speech-Language Pathology and Audiology Board.
- 22 (ak) The California Board of Occupational Therapy.
- 23 (al) The Osteopathic Medical Board of California.
- 24 (am) The Bureau of Naturopathic Medicine.
- 25 (an) The Professional Fiduciaries Bureau.
- 26 (ao) Any other boards, offices, or officers subject to its
- 27 jurisdiction by law.
- 28 SEC. 2.3. Section 101 of the Business and Professions Code
- 29 is amended to read:
- 30 101. The department is comprised of:
- 31 (a) The Dental Board of California.
- 32 (b) The Medical Board of California.
- 33 (c) The State Board of Optometry.
- 34 (d) The California State Board of Pharmacy.
- 35 (e) The Veterinary Medical Board.
- 36 (f) The California Board of Accountancy.
- 37 (g) The California Architects Board.
- 38 (h) The Bureau of Barbering and Cosmetology.
- 39 (i) The Board for Professional Engineers and Land Surveyors.
- 40 (j) The Contractors' State License Board.

- 1 (k) The Bureau for Private Postsecondary and Vocational
- 2 Education.
- 3 (l) The Structural Pest Control Board.
- 4 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 5 (n) The Board of Registered Nursing.
- 6 (o) The Board of Behavioral Sciences.
- 7 (p) The State Athletic Commission.
- 8 (q) The Cemetery and Funeral Bureau.
- 9 (r) The State Board of Guide Dogs for the Blind.
- 10 (s) The Bureau of Security and Investigative Services.
- 11 (t) The Court Reporters Board of California.
- 12 (u) The Board of Vocational Nursing and Psychiatric
- 13 Technicians.
- 14 (v) The Landscape Architects Technical Committee.
- 15 (w) The Bureau of Electronic and Appliance Repair.
- 16 (x) The Division of Investigation.
- 17 (y) The Bureau of Automotive Repair.
- 18 (z) The State Board of Registration for Geologists and
- 19 Geophysicists.
- 20 (aa) The Respiratory Care Board of California.
- 21 (ab) The Acupuncture Board.
- 22 (ac) The Board of Psychology.
- 23 (ad) The California Board of Podiatric Medicine.
- 24 (ae) The Physical Therapy Board of California.
- 25 (af) The Arbitration Review Program.
- 26 (ag) The Hearing Aid Dispensers Bureau.
- 27 (ah) The Physician Assistant Committee.
- 28 (ai) The Speech-Language Pathology and Audiology Board.
- 29 (aj) The California Board of Occupational Therapy.
- 30 (ak) The Osteopathic Medical Board of California.
- 31 (an) The Bureau of Naturopathic Medicine.
- 32 (am) The Dental Hygiene Committee of California.
- 33 (an) The Professional Fiduciaries Bureau.
- 34 (ao) Any other boards, offices, or officers subject to its
- 35 jurisdiction by law.
- 36 SEC. 2.5. Section 101 of the Business and Professions Code
- 37 is amended to read:
- 38 101. The department is comprised of:
- 39 (a) The Dental Board of California.
- 40 (b) The Medical Board of California.

- 1 (c) The State Board of Optometry.
- 2 (d) The California State Board of Pharmacy.
- 3 (e) The Veterinary Medical Board.
- 4 (f) The California Board of Accountancy.
- 5 (g) The California Architects Board.
- 6 (h) The Bureau of Barbering and Cosmetology.
- 7 (i) The Board for Professional Engineers and Land Surveyors.
- 8 (j) The Contractors' State License Board.
- 9 (k) The Bureau for Private Postsecondary Education.
- 10 (l) The Structural Pest Control Board.
- 11 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 12 (n) The Board of Registered Nursing.
- 13 (o) The Board of Behavioral Sciences.
- 14 (p) The State Athletic Commission.
- 15 (q) The Cemetery and Funeral Bureau.
- 16 (r) The State Board of Guide Dogs for the Blind.
- 17 (s) The Bureau of Security and Investigative Services.
- 18 (t) The Court Reporters Board of California.
- 19 (u) The Board of Vocational Nursing and Psychiatric
- 20 Technicians.
- 21 (v) The Landscape Architects Technical Committee.
- 22 (w) The Bureau of Electronic and Appliance Repair.
- 23 (x) The Division of Investigation.
- 24 (y) The Bureau of Automotive Repair.
- 25 (z) The State Board of Registration for Geologists and
- 26 Geophysicists.
- 27 (aa) The Respiratory Care Board of California.
- 28 (ab) The Acupuncture Board.
- 29 (ac) The Board of Psychology.
- 30 (ad) The California Board of Podiatric Medicine.
- 31 (ae) The Physical Therapy Board of California.
- 32 (af) The Arbitration Review Program.
- 33 (ag) The Hearing Aid Dispensers Bureau.
- 34 (ah) The Physician Assistant Committee.
- 35 (ai) The Speech-Language Pathology and Audiology Board.
- 36 (aj) The California Board of Occupational Therapy.
- 37 (ak) The Osteopathic Medical Board of California.
- 38 (al) The Bureau of Naturopathic Medicine.
- 39 (am) The Dental Hygiene Committee of California.
- 40 (an) The Professional Fiduciaries Bureau.

1 (ao) Any other boards, offices, or officers subject to its
2 jurisdiction by law.

3 SEC. 3. Section 128.5 of the Business and Professions Code
4 is amended to read:

5 128.5. (a) Notwithstanding any other provision of law, if at
6 the end of any fiscal year, an agency within the Department of
7 Consumer Affairs, except the agencies referred to in subdivision
8 (b), has unencumbered funds in an amount that equals or is more
9 than the agency's operating budget for the next two fiscal years,
10 the agency shall reduce license or other fees, whether the license
11 or other fees be fixed by statute or may be determined by the
12 agency within limits fixed by statute, during the following fiscal
13 year in an amount that will reduce any surplus funds of the agency
14 to an amount less than the agency's operating budget for the next
15 two fiscal years.

16 (b) Notwithstanding any other provision of law, if at the end of
17 any fiscal year, the California Architects Board, the Board of
18 Behavioral Sciences, the Veterinary Medical Board, the Court
19 Reporters Board of California, the Medical Board of California,
20 the Board of Vocational Nursing and Psychiatric Technicians, or
21 the Bureau of Security and Investigative Services has
22 unencumbered funds in an amount that equals or is more than the
23 agency's operating budget for the next two fiscal years, the agency
24 shall reduce license or other fees, whether the license or other fees
25 be fixed by statute or may be determined by the agency within
26 limits fixed by statute, during the following fiscal year in an amount
27 that will reduce any surplus funds of the agency to an amount less
28 than the agency's operating budget for the next two fiscal years.

29 SEC. 4. Section 144 of the Business and Professions Code is
30 amended to read:

31 144. (a) Notwithstanding any other provision of law, an agency
32 designated in subdivision (b) shall require an applicant to furnish
33 to the agency a full set of fingerprints for purposes of conducting
34 criminal history record checks. Any agency designated in
35 subdivision (b) may obtain and receive, at its discretion, criminal
36 history information from the Department of Justice and the United
37 States Federal Bureau of Investigation.

38 (b) Subdivision (a) applies to the following:

39 (1) California Board of Accountancy.

40 (2) State Athletic Commission.

- 1 (3) Board of Behavioral Sciences.
- 2 (4) Court Reporters Board of California.
- 3 (5) State Board of Guide Dogs for the Blind.
- 4 (6) California State Board of Pharmacy.
- 5 (7) Board of Registered Nursing.
- 6 (8) Veterinary Medical Board.
- 7 (9) Registered Veterinary Technician Committee.
- 8 (10) Board of Vocational Nursing and Psychiatric Technicians.
- 9 (11) Respiratory Care Board of California.
- 10 (12) Hearing Aid Dispensers Advisory Commission.
- 11 (13) Physical Therapy Board of California.
- 12 (14) Physician Assistant Committee of the Medical Board of
- 13 California.
- 14 (15) Speech-Language Pathology and Audiology Board.
- 15 (16) Medical Board of California.
- 16 (17) State Board of Optometry.
- 17 (18) Acupuncture Board.
- 18 (19) Cemetery and Funeral Bureau.
- 19 (20) Bureau of Security and Investigative Services.
- 20 (21) Division of Investigation.
- 21 (22) Board of Psychology.
- 22 (23) The California Board of Occupational Therapy.
- 23 (24) Structural Pest Control Board.
- 24 (25) Contractors' State License Board.
- 25 (26) Bureau of Naturopathic Medicine.
- 26 (27) The Professional Fiduciaries Bureau.
- 27 (c) The provisions of paragraph (24) of subdivision (b) shall
- 28 become operative on July 1, 2004. The provisions of paragraph
- 29 (25) of subdivision (b) shall become operative on the date on which
- 30 sufficient funds are available for the Contractors' State License
- 31 Board and the Department of Justice to conduct a criminal history
- 32 record check pursuant to this section or on July 1, 2005, whichever
- 33 occurs first.
- 34 SEC. 5. Section 146 of the Business and Professions Code is
- 35 amended to read:
- 36 146. (a) Notwithstanding any other provision of law, a
- 37 violation of any code section listed in subdivision (c) or (d) is an
- 38 infraction subject to the procedures described in Sections 19.6 and
- 39 19.7 of the Penal Code when either of the following applies:

1 (1) A complaint or a written notice to appear in court pursuant
2 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part
3 2 of the Penal Code is filed in court charging the offense as an
4 infraction unless the defendant, at the time he or she is arraigned,
5 after being advised of his or her rights, elects to have the case
6 proceed as a misdemeanor.

7 (2) The court, with the consent of the defendant and the
8 prosecution, determines that the offense is an infraction in which
9 event the case shall proceed as if the defendant has been arraigned
10 on an infraction complaint.

11 (b) Subdivision (a) does not apply to a violation of the code
12 sections listed in subdivisions (c) and (d) if the defendant has had
13 his or her license, registration, or certificate previously revoked
14 or suspended.

15 (c) The following sections require registration, licensure,
16 certification, or other authorization in order to engage in certain
17 businesses or professions regulated by this code:

18 (1) Sections 2052 and 2054.

19 (2) Section 2630.

20 (3) Section 2903.

21 (4) Section 3660.

22 (5) Sections 3760 and 3761.

23 (6) Section 4080.

24 (7) Section 4825.

25 (8) Section 4935.

26 (9) Section 4980.

27 (10) Section 4996.

28 (11) Section 5536.

29 (12) Section 6704.

30 (13) Section 6980.10.

31 (14) Section 7317.

32 (15) Section 7502 or 7592.

33 (16) Section 7520.

34 (17) Section 7617 or 7641.

35 (18) Subdivision (a) of Section 7872.

36 (19) Section 8016.

37 (20) Section 8505.

38 (21) Section 8725.

39 (22) Section 9681.

40 (23) Section 9840.

1 (24) Subdivision (c) of Section 9891.24.

2 (25) Section 19049.

3 (d) Institutions that are required to register with the Bureau for
4 Private Postsecondary and Vocational Education pursuant to
5 Section 94931 of the Education Code.

6 (e) Notwithstanding any other provision of law, a violation of
7 any of the sections listed in subdivision (c) or (d), which is an
8 infraction, is punishable by a fine of not less than two hundred
9 fifty dollars (\$250) and not more than one thousand dollars
10 (\$1,000). No portion of the minimum fine may be suspended by
11 the court unless as a condition of that suspension the defendant is
12 required to submit proof of a current valid license, registration, or
13 certificate for the profession or vocation the absence of which was
14 the basis for his or her conviction.

15 SEC. 5.5. Section 146 of the Business and Professions Code
16 is amended to read:

17 146. (a) Notwithstanding any other provision of law, a
18 violation of any code section listed in subdivision (c) or (d) is an
19 infraction subject to the procedures described in Sections 19.6 and
20 19.7 of the Penal Code when either of the following applies:

21 (1) A complaint or a written notice to appear in court pursuant
22 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part
23 2 of the Penal Code is filed in court charging the offense as an
24 infraction unless the defendant, at the time he or she is arraigned,
25 after being advised of his or her rights, elects to have the case
26 proceed as a misdemeanor.

27 (2) The court, with the consent of the defendant and the
28 prosecution, determines that the offense is an infraction in which
29 event the case shall proceed as if the defendant has been arraigned
30 on an infraction complaint.

31 (b) Subdivision (a) does not apply to a violation of the code
32 sections listed in subdivisions (c) and (d) if the defendant has had
33 his or her license, registration, or certificate previously revoked
34 or suspended.

35 (c) The following sections require registration, licensure,
36 certification, or other authorization in order to engage in certain
37 businesses or professions regulated by this code:

38 (1) Sections 2052 and 2054.

39 (2) Section 2630.

40 (3) Section 2903.

- 1 (4) Section 3660.
- 2 (5) Sections 3760 and 3761.
- 3 (6) Section 4080.
- 4 (7) Section 4825.
- 5 (8) Section 4935.
- 6 (9) Section 4980.
- 7 (10) Section 4996.
- 8 (11) Section 5536.
- 9 (12) Section 6704.
- 10 (13) Section 6980.10.
- 11 (14) Section 7317.
- 12 (15) Section 7502 or 7592.
- 13 (16) Section 7520.
- 14 (17) Section 7617 or 7641.
- 15 (18) Subdivision (a) of Section 7872.
- 16 (19) Section 8016.
- 17 (20) Section 8505.
- 18 (21) Section 8725.
- 19 (22) Section 9681.
- 20 (23) Section 9840.
- 21 (24) Subdivision (c) of Section 9891.24.
- 22 (25) Section 19049.

23 (d) Institutions that are required to register with the Bureau for
24 Private Postsecondary Education pursuant to Chapter 8
25 (commencing with Section 94800) of Part 59 of Division 10 of
26 Title 3 of the Education Code.

27 (e) Notwithstanding any other provision of law, a violation of
28 any of the sections listed in subdivision (c) or (d), which is an
29 infraction, is punishable by a fine of not less than two hundred
30 fifty dollars (\$250) and not more than one thousand dollars
31 (\$1,000). No portion of the minimum fine may be suspended by
32 the court unless as a condition of that suspension the defendant is
33 required to submit proof of a current valid license, registration, or
34 certificate for the profession or vocation the absence of which was
35 the basis for his or her conviction.

36 SEC. 6. Section 149 of the Business and Professions Code is
37 amended to read:

38 149. (a) If, upon investigation, an agency designated in
39 subdivision (e) has probable cause to believe that a person is
40 advertising in a telephone directory with respect to the offering or

1 performance of services, without being properly licensed by or
2 registered with the agency to offer or perform those services, the
3 agency may issue a citation under Section 148 containing an order
4 of correction that requires the violator to do both of the following:

5 (1) Cease the unlawful advertising.

6 (2) Notify the telephone company furnishing services to the
7 violator to disconnect the telephone service furnished to any
8 telephone number contained in the unlawful advertising.

9 (b) This action is stayed if the person to whom a citation is
10 issued under subdivision (a) notifies the agency in writing that he
11 or she intends to contest the citation. The agency shall afford an
12 opportunity for a hearing, as specified in Section 125.9.

13 (c) If the person to whom a citation and order of correction is
14 issued under subdivision (a) fails to comply with the order of
15 correction after that order is final, the agency shall inform the
16 Public Utilities Commission of the violation and the Public Utilities
17 Commission shall require the telephone corporation furnishing
18 services to that person to disconnect the telephone service furnished
19 to any telephone number contained in the unlawful advertising.

20 (d) The good faith compliance by a telephone corporation with
21 an order of the Public Utilities Commission to terminate service
22 issued pursuant to this section shall constitute a complete defense
23 to any civil or criminal action brought against the telephone
24 corporation arising from the termination of service.

25 (e) Subdivision (a) shall apply to the following boards, bureaus,
26 committees, commissions, or programs:

27 (1) The Bureau of Barbering and Cosmetology.

28 (2) The Funeral Directors and Embalmers Program.

29 (3) The Veterinary Medical Board.

30 (4) The Hearing Aid Dispensers Advisory Commission.

31 (5) The Landscape Architects Technical Committee.

32 (6) The California Board of Podiatric Medicine.

33 (7) The Respiratory Care Board of California.

34 (8) The Bureau of Home Furnishings and Thermal Insulation.

35 (9) The Bureau of Security and Investigative Services.

36 (10) The Bureau of Electronic and Appliance Repair.

37 (11) The Bureau of Automotive Repair.

38 (12) The Tax Preparers Program.

39 (13) The California Architects Board.

40 (14) The Speech-Language Pathology and Audiology Board.

- 1 (15) The Board for Professional Engineers and Land Surveyors.
- 2 (16) The Board of Behavioral Sciences.
- 3 (17) The State Board for Geologists and Geophysicists.
- 4 (18) The Structural Pest Control Board.
- 5 (19) The Acupuncture Board.
- 6 (20) The Board of Psychology.
- 7 (21) The California Board of Accountancy.
- 8 (22) The Bureau of Naturopathic Medicine.
- 9 (23) The Physical Therapy Board of California.

10 SEC. 6.5. Section 149 of the Business and Professions Code
11 is amended to read:

12 149. (a) If, upon investigation, an agency designated in
13 subdivision (e) has probable cause to believe that a person is
14 advertising in a telephone directory with respect to the offering or
15 performance of services, without being properly licensed by or
16 registered with the agency to offer or perform those services, the
17 agency may issue a citation under Section 148 containing an order
18 of correction that requires the violator to do both of the following:

19 (1) Cease the unlawful advertising.

20 (2) Notify the telephone company furnishing services to the
21 violator to disconnect the telephone service furnished to any
22 telephone number contained in the unlawful advertising.

23 (b) This action is stayed if the person to whom a citation is
24 issued under subdivision (a) notifies the agency in writing that he
25 or she intends to contest the citation. The agency shall afford an
26 opportunity for a hearing, as specified in Section 125.9.

27 (c) If the person to whom a citation and order of correction is
28 issued under subdivision (a) fails to comply with the order of
29 correction after that order is final, the agency shall inform the
30 Public Utilities Commission of the violation and the Public Utilities
31 Commission shall require the telephone corporation furnishing
32 services to that person to disconnect the telephone service furnished
33 to any telephone number contained in the unlawful advertising.

34 (d) The good faith compliance by a telephone corporation with
35 an order of the Public Utilities Commission to terminate service
36 issued pursuant to this section shall constitute a complete defense
37 to any civil or criminal action brought against the telephone
38 corporation arising from the termination of service.

39 (e) Subdivision (a) shall apply to the following boards, bureaus,
40 committees, commissions, or programs:

- 1 (1) The Bureau of Barbering and Cosmetology.
- 2 (2) The Funeral Directors and Embalmers Program.
- 3 (3) The Veterinary Medical Board.
- 4 (4) The Hearing Aid Dispensers Advisory Commission.
- 5 (5) The Landscape Architects Technical Committee.
- 6 (6) The California Board of Podiatric Medicine.
- 7 (7) The Respiratory Care Board of California.
- 8 (8) The Bureau of Home Furnishings and Thermal Insulation.
- 9 (9) The Bureau of Security and Investigative Services.
- 10 (10) The Bureau of Electronic and Appliance Repair.
- 11 (11) The Bureau of Automotive Repair.
- 12 (12) The Tax Preparers Program.
- 13 (13) The California Architects Board.
- 14 (14) The Speech-Language Pathology and Audiology Board.
- 15 (15) The Board for Professional Engineers and Land Surveyors.
- 16 (16) The Board of Behavioral Sciences.
- 17 (17) The State Board for Geologists and Geophysicists.
- 18 (18) The Structural Pest Control Board.
- 19 (19) The Acupuncture Board.
- 20 (20) The Board of Psychology.
- 21 (21) The California Board of Accountancy.
- 22 (22) The Bureau of Naturopathic Medicine.
- 23 (23) The Bureau for Private Postsecondary Education.
- 24 (24) The Physical Therapy Board of California.

25 SEC. 7. Section 683 of the Business and Professions Code is
26 amended to read:

27 683. (a) A board shall report, within 10 working days, to the
28 State Department of Health Care Services the name and license
29 number of a person whose license has been revoked, suspended,
30 surrendered, made inactive by the licensee, or placed in another
31 category that prohibits the licensee from practicing his or her
32 profession. The purpose of the reporting requirement is to prevent
33 reimbursement by the state for Medi-Cal and Denti-Cal services
34 provided after the cancellation of a provider's professional license.

35 (b) "Board," as used in this section, means the Dental Board of
36 California, the Medical Board of California, the Board of
37 Psychology, the State Board of Optometry, the California State
38 Board of Pharmacy, the Osteopathic Medical Board of California,
39 the State Board of Chiropractic Examiners, and the California
40 Board of Occupational Therapy.

1 SEC. 8. Section 733 of the Business and Professions Code is
2 amended to read:

3 733. (a) No licentiate shall obstruct a patient in obtaining a
4 prescription drug or device that has been legally prescribed or
5 ordered for that patient. A violation of this section constitutes
6 unprofessional conduct by the licentiate and shall subject the
7 licentiate to disciplinary or administrative action by his or her
8 licensing agency.

9 (b) Notwithstanding any other provision of law, a licentiate
10 shall dispense drugs and devices, as described in subdivision (a)
11 of Section 4024, pursuant to a lawful order or prescription unless
12 one of the following circumstances exists:

13 (1) Based solely on the licentiate's professional training and
14 judgment, dispensing pursuant to the order or the prescription is
15 contrary to law, or the licentiate determines that the prescribed
16 drug or device would cause a harmful drug interaction or would
17 otherwise adversely affect the patient's medical condition.

18 (2) The prescription drug or device is not in stock. If an order,
19 other than an order described in Section 4019, or prescription
20 cannot be dispensed because the drug or device is not in stock, the
21 licentiate shall take one of the following actions:

22 (A) Immediately notify the patient and arrange for the drug or
23 device to be delivered to the site or directly to the patient in a
24 timely manner.

25 (B) Promptly transfer the prescription to another pharmacy
26 known to stock the prescription drug or device that is near enough
27 to the site from which the prescription or order is transferred, to
28 ensure the patient has timely access to the drug or device.

29 (C) Return the prescription to the patient and refer the patient.
30 The licentiate shall make a reasonable effort to refer the patient to
31 a pharmacy that stocks the prescription drug or device that is near
32 enough to the referring site to ensure that the patient has timely
33 access to the drug or device.

34 (3) The licentiate refuses on ethical, moral, or religious grounds
35 to dispense a drug or device pursuant to an order or prescription.
36 A licentiate may decline to dispense a prescription drug or device
37 on this basis only if the licentiate has previously notified his or
38 her employer, in writing, of the drug or class of drugs to which he
39 or she objects, and the licentiate's employer can, without creating
40 undue hardship, provide a reasonable accommodation of the

1 licentiate's objection. The licentiate's employer shall establish
2 protocols that ensure that the patient has timely access to the
3 prescribed drug or device despite the licentiate's refusal to dispense
4 the prescription or order. For purposes of this section, "reasonable
5 accommodation" and "undue hardship" shall have the same
6 meaning as applied to those terms pursuant to subdivision (l) of
7 Section 12940 of the Government Code.

8 (c) For the purposes of this section, "prescription drug or device"
9 has the same meaning as the definition in Section 4022.

10 (d) The provisions of this section shall apply to the drug therapy
11 described in Section 4052.3.

12 (e) This section imposes no duty on a licentiate to dispense a
13 drug or device pursuant to a prescription or order without payment
14 for the drug or device, including payment directly by the patient
15 or through a third-party payer accepted by the licentiate or payment
16 of any required copayment by the patient.

17 (f) The notice to consumers required by Section 4122 shall
18 include a statement that describes patients' rights relative to the
19 requirements of this section.

20 SEC. 9. Section 800 of the Business and Professions Code is
21 amended to read:

22 800. (a) The Medical Board of California, the Board of
23 Psychology, the Dental Board of California, the Osteopathic
24 Medical Board of California, the State Board of Chiropractic
25 Examiners, the Board of Registered Nursing, the Board of
26 Vocational Nursing and Psychiatric Technicians, the State Board
27 of Optometry, the Veterinary Medical Board, the Board of
28 Behavioral Sciences, the Physical Therapy Board of California,
29 the California State Board of Pharmacy, the Speech-Language
30 Pathology and Audiology Board, the California Board of
31 Occupational Therapy, and the Acupuncture Board shall each
32 separately create and maintain a central file of the names of all
33 persons who hold a license, certificate, or similar authority from
34 that board. Each central file shall be created and maintained to
35 provide an individual historical record for each licensee with
36 respect to the following information:

37 (1) Any conviction of a crime in this or any other state that
38 constitutes unprofessional conduct pursuant to the reporting
39 requirements of Section 803.

1 (2) Any judgment or settlement requiring the licensee or his or
2 her insurer to pay any amount of damages in excess of three
3 thousand dollars (\$3,000) for any claim that injury or death was
4 proximately caused by the licensee's negligence, error or omission
5 in practice, or by rendering unauthorized professional services,
6 pursuant to the reporting requirements of Section 801 or 802.

7 (3) Any public complaints for which provision is made pursuant
8 to subdivision (b).

9 (4) Disciplinary information reported pursuant to Section 805.

10 (b) Each board shall prescribe and promulgate forms on which
11 members of the public and other licensees or certificate holders
12 may file written complaints to the board alleging any act of
13 misconduct in, or connected with, the performance of professional
14 services by the licensee.

15 If a board, or division thereof, a committee, or a panel has failed
16 to act upon a complaint or report within five years, or has found
17 that the complaint or report is without merit, the central file shall
18 be purged of information relating to the complaint or report.

19 Notwithstanding this subdivision, the Board of Psychology, the
20 Board of Behavioral Sciences, and the Respiratory Care Board of
21 California shall maintain complaints or reports as long as each
22 board deems necessary.

23 (c) The contents of any central file that are not public records
24 under any other provision of law shall be confidential except that
25 the licensee involved, or his or her counsel or representative, shall
26 have the right to inspect and have copies made of his or her
27 complete file except for the provision that may disclose the identity
28 of an information source. For the purposes of this section, a board
29 may protect an information source by providing a copy of the
30 material with only those deletions necessary to protect the identity
31 of the source or by providing a comprehensive summary of the
32 substance of the material. Whichever method is used, the board
33 shall ensure that full disclosure is made to the subject of any
34 personal information that could reasonably in any way reflect or
35 convey anything detrimental, disparaging, or threatening to a
36 licensee's reputation, rights, benefits, privileges, or qualifications,
37 or be used by a board to make a determination that would affect
38 a licensee's rights, benefits, privileges, or qualifications. The
39 information required to be disclosed pursuant to Section 803.1

1 shall not be considered among the contents of a central file for the
2 purposes of this subdivision.

3 The licensee may, but is not required to, submit any additional
4 exculpatory or explanatory statement or other information that the
5 board shall include in the central file.

6 Each board may permit any law enforcement or regulatory
7 agency when required for an investigation of unlawful activity or
8 for licensing, certification, or regulatory purposes to inspect and
9 have copies made of that licensee's file, unless the disclosure is
10 otherwise prohibited by law.

11 These disclosures shall effect no change in the confidential status
12 of these records.

13 SEC. 10. Section 801 of the Business and Professions Code is
14 amended to read:

15 801. (a) Except as provided in Section 801.01 and subdivisions
16 (b), (c), and (d) of this section, every insurer providing professional
17 liability insurance to a person who holds a license, certificate, or
18 similar authority from or under any agency mentioned in
19 subdivision (a) of Section 800 shall send a complete report to that
20 agency as to any settlement or arbitration award over three
21 thousand dollars (\$3,000) of a claim or action for damages for
22 death or personal injury caused by that person's negligence, error,
23 or omission in practice, or by his or her rendering of unauthorized
24 professional services. The report shall be sent within 30 days after
25 the written settlement agreement has been reduced to writing and
26 signed by all parties thereto or within 30 days after service of the
27 arbitration award on the parties.

28 (b) Every insurer providing professional liability insurance to
29 a person licensed pursuant to Chapter 13 (commencing with
30 Section 4980) or Chapter 14 (commencing with Section 4990)
31 shall send a complete report to the Board of Behavioral Sciences
32 as to any settlement or arbitration award over ten thousand dollars
33 (\$10,000) of a claim or action for damages for death or personal
34 injury caused by that person's negligence, error, or omission in
35 practice, or by his or her rendering of unauthorized professional
36 services. The report shall be sent within 30 days after the written
37 settlement agreement has been reduced to writing and signed by
38 all parties thereto or within 30 days after service of the arbitration
39 award on the parties.

1 (c) Every insurer providing professional liability insurance to
2 a dentist licensed pursuant to Chapter 4 (commencing with Section
3 1600) shall send a complete report to the Dental Board of
4 California as to any settlement or arbitration award over ten
5 thousand dollars (\$10,000) of a claim or action for damages for
6 death or personal injury caused by that person's negligence, error,
7 or omission in practice, or rendering of unauthorized professional
8 services. The report shall be sent within 30 days after the written
9 settlement agreement has been reduced to writing and signed by
10 all parties thereto or within 30 days after service of the arbitration
11 award on the parties.

12 (d) Every insurer providing liability insurance to a veterinarian
13 licensed pursuant to Chapter 11 (commencing with Section 4800)
14 shall send a complete report to the Veterinary Medical Board of
15 any settlement or arbitration award over ten thousand dollars
16 (\$10,000) of a claim or action for damages for death or injury
17 caused by that person's negligence, error, or omission in practice,
18 or rendering of unauthorized professional service. The report shall
19 be sent within 30 days after the written settlement agreement has
20 been reduced to writing and signed by all parties thereto or within
21 30 days after service of the arbitration award on the parties.

22 (e) The insurer shall notify the claimant, or if the claimant is
23 represented by counsel, the insurer shall notify the claimant's
24 attorney, that the report required by subdivision (a), (b), or (c) has
25 been sent to the agency. If the attorney has not received this notice
26 within 45 days after the settlement was reduced to writing and
27 signed by all of the parties, the arbitration award was served on
28 the parties, or the date of entry of the civil judgment, the attorney
29 shall make the report to the agency.

30 (f) Notwithstanding any other provision of law, no insurer shall
31 enter into a settlement without the written consent of the insured,
32 except that this prohibition shall not void any settlement entered
33 into without that written consent. The requirement of written
34 consent shall only be waived by both the insured and the insurer.
35 This section shall only apply to a settlement on a policy of
36 insurance executed or renewed on or after January 1, 1971.

37 SEC. 11. Section 801.01 of the Business and Professions Code
38 is amended to read:

39 801.01. (a) A complete report shall be sent to the Medical
40 Board of California, the Osteopathic Medical Board, or the

1 California Board of Podiatric Medicine, with respect to a licensee
2 of the board as to the following:

3 (1) A settlement over thirty thousand dollars (\$30,000) or
4 arbitration award of any amount or a civil judgment of any amount,
5 whether or not vacated by a settlement after entry of the judgment,
6 that was not reversed on appeal, of a claim or action for damages
7 for death or personal injury caused by the licensee's alleged
8 negligence, error, or omission in practice, or by his or her rendering
9 of unauthorized professional services.

10 (2) A settlement over thirty thousand dollars (\$30,000) if it is
11 based on the licensee's alleged negligence, error, or omission in
12 practice in California, or by the licensee's rendering of
13 unauthorized professional services, and a party to the settlement
14 is a corporation, medical group, partnership, or other corporate
15 entity in which the licensee has an ownership interest or that
16 employs or contracts with the licensee.

17 (b) The report shall be sent by the following:

18 (1) The insurer providing professional liability insurance to the
19 licensee.

20 (2) The licensee, or his or her counsel, if the licensee does not
21 possess professional liability insurance.

22 (3) A state or local governmental agency that self-insures the
23 licensee.

24 (c) The entity, person, or licensee obligated to report pursuant
25 to subdivision (b) shall send the complete report if the judgment,
26 settlement agreement, or arbitration award is entered against or
27 paid by the employer of the licensee and not entered against or
28 paid by the licensee. "Employer," as used in this paragraph, means
29 a professional corporation, a group practice, a health care facility
30 or clinic licensed or exempt from licensure under the Health and
31 Safety Code, a licensed health care service plan, a medical care
32 foundation, an educational institution, a professional institution,
33 a professional school or college, a general law corporation, a public
34 entity, or a nonprofit organization that employs, retains, or contracts
35 with a licensee referred to in this section. Nothing in this paragraph
36 shall be construed to authorize the employment of, or contracting
37 with, any licensee in violation of Section 2400.

38 (d) The report shall be sent to the Medical Board of California,
39 the Osteopathic Medical Board of California, or the California
40 Board of Podiatric Medicine, as appropriate, within 30 days after

1 the written settlement agreement has been reduced to writing and
2 signed by all parties thereto, within 30 days after service of the
3 arbitration award on the parties, or within 30 days after the date
4 of entry of the civil judgment.

5 (e) If an insurer is required under subdivision (b) to send the
6 report, the insurer shall notify the claimant, or if the claimant is
7 represented by counsel, the claimant's counsel, that the insurer
8 has sent the report to the Medical Board of California, the
9 Osteopathic Medical Board of California, or the California Board
10 of Podiatric Medicine. If the claimant, or his or her counsel, has
11 not received this notice within 45 days after the settlement was
12 reduced to writing and signed by all of the parties or the arbitration
13 award was served on the parties or the date of entry of the civil
14 judgment, the claimant or the claimant's counsel shall make the
15 report to the appropriate board.

16 (f) If the licensee or his or her counsel is required under
17 subdivision (b) to send the report, the licensee or his or her counsel
18 shall send a copy of the report to the claimant or to his or her
19 counsel if he or she is represented by counsel. If the claimant or
20 his or her counsel has not received a copy of the report within 45
21 days after the settlement was reduced to writing and signed by all
22 of the parties or the arbitration award was served on the parties or
23 the date of entry of the civil judgment, the claimant or the
24 claimant's counsel shall make the report to the appropriate board.

25 (g) Failure of the licensee or claimant, or counsel representing
26 the licensee or claimant, to comply with subdivision (f) is a public
27 offense punishable by a fine of not less than fifty dollars (\$50) and
28 not more than five hundred dollars (\$500). A knowing and
29 intentional failure to comply with subdivision (f) or a conspiracy
30 or collusion not to comply with subdivision (f), or to hinder or
31 impede any other person in the compliance, is a public offense
32 punishable by a fine of not less than five thousand dollars (\$5,000)
33 and not more than fifty thousand dollars (\$50,000).

34 (h) (1) The Medical Board of California, the Osteopathic
35 Medical Board of California, and the California Board of Podiatric
36 Medicine may develop a prescribed form for the report.

37 (2) The report shall be deemed complete only if it includes the
38 following information:

39 (A) The name and last known business and residential addresses
40 of every plaintiff or claimant involved in the matter, whether or

1 not the person received an award under the settlement, arbitration,
2 or judgment.

3 (B) The name and last known business and residential address
4 of every physician and surgeon or doctor of podiatric medicine
5 who was alleged to have acted improperly, whether or not that
6 person was a named defendant in the action and whether or not
7 that person was required to pay any damages pursuant to the
8 settlement, arbitration award, or judgment.

9 (C) The name, address, and principal place of business of every
10 insurer providing professional liability insurance to any person
11 described in subparagraph (B), and the insured's policy number.

12 (D) The name of the court in which the action or any part of the
13 action was filed, and the date of filing and case number of each
14 action.

15 (E) A brief description or summary of the facts of each claim,
16 charge, or allegation, including the date of occurrence.

17 (F) The name and last known business address of each attorney
18 who represented a party in the settlement, arbitration, or civil
19 action, including the name of the client he or she represented.

20 (G) The amount of the judgment and the date of its entry; the
21 amount of the arbitration award, the date of its service on the
22 parties, and a copy of the award document; or the amount of the
23 settlement and the date it was reduced to writing and signed by all
24 parties. If an otherwise reportable settlement is entered into after
25 a reportable judgment or arbitration award is issued, the report
26 shall include both the settlement and the judgment or award.

27 (H) The specialty or subspecialty of the physician and surgeon
28 or the doctor of podiatric medicine who was the subject of the
29 claim or action.

30 (I) Any other information the Medical Board of California, the
31 Osteopathic Medical Board of California, or the California Board
32 of Podiatric Medicine may, by regulation, require.

33 (3) Every professional liability insurer, self-insured
34 governmental agency, or licensee or his or her counsel that makes
35 a report under this section and has received a copy of any written
36 or electronic patient medical or hospital records prepared by the
37 treating physician and surgeon or podiatrist, or the staff of the
38 treating physician and surgeon, podiatrist, or hospital, describing
39 the medical condition, history, care, or treatment of the person
40 whose death or injury is the subject of the report, or a copy of any

1 deposition in the matter that discusses the care, treatment, or
2 medical condition of the person, shall include with the report,
3 copies of the records and depositions, subject to reasonable costs
4 to be paid by the Medical Board of California, the Osteopathic
5 Medical Board of California, or the California Board of Podiatric
6 Medicine. If confidentiality is required by court order and, as a
7 result, the reporter is unable to provide the records and depositions,
8 documentation to that effect shall accompany the original report.
9 The applicable board may, upon prior notification of the parties
10 to the action, petition the appropriate court for modification of any
11 protective order to permit disclosure to the board. A professional
12 liability insurer, self-insured governmental agency, or licensee or
13 his or her counsel shall maintain the records and depositions
14 referred to in this paragraph for at least one year from the date of
15 filing of the report required by this section.

16 (i) If the board, within 60 days of its receipt of a report filed
17 under this section, notifies a person named in the report, that person
18 shall maintain for the period of three years from the date of filing
19 of the report any records he or she has as to the matter in question
20 and shall make those records available upon request to the board
21 to which the report was sent.

22 (j) Notwithstanding any other provision of law, no insurer shall
23 enter into a settlement without the written consent of the insured,
24 except that this prohibition shall not void any settlement entered
25 into without that written consent. The requirement of written
26 consent shall only be waived by both the insured and the insurer.

27 SEC. 12. Section 803 of the Business and Professions Code is
28 amended to read:

29 803. (a) Except as provided in subdivision (b), within 10 days
30 after a judgment by a court of this state that a person who holds a
31 license, certificate, or other similar authority from the Board of
32 Behavioral Sciences or from an agency mentioned in subdivision
33 (a) of Section 800 (except a person licensed pursuant to Chapter
34 3 (commencing with Section 1200)) has committed a crime, or is
35 liable for any death or personal injury resulting in a judgment for
36 an amount in excess of thirty thousand dollars (\$30,000) caused
37 by his or her negligence, error or omission in practice, or his or
38 her rendering unauthorized professional services, the clerk of the
39 court that rendered the judgment shall report that fact to the agency
40 that issued the license, certificate, or other similar authority.

(b) For purposes of a physician and surgeon, osteopathic physician and surgeon, or doctor of podiatric medicine, who is liable for any death or personal injury resulting in a judgment of any amount caused by his or her negligence, error or omission in practice, or his or her rendering unauthorized professional services, the clerk of the court that rendered the judgment shall report that fact to the agency that issued the license.

SEC. 13. Section 2089.5 of the Business and Professions Code is amended to read:

2089.5. (a) Clinical instruction in the subjects listed in subdivision (b) of Section 2089 shall meet the requirements of this section and shall be considered adequate if the requirements of subdivision (a) of Section 2089 and the requirements of this section are satisfied.

(b) Instruction in the clinical courses shall total a minimum of 72 weeks in length.

(c) Instruction in the core clinical courses of surgery, medicine, family medicine, pediatrics, obstetrics and gynecology, and psychiatry shall total a minimum of 40 weeks in length with a minimum of eight weeks instruction in surgery, eight weeks in medicine, six weeks in pediatrics, six weeks in obstetrics and gynecology, a minimum of four weeks in family medicine, and four weeks in psychiatry.

(d) Of the instruction required by subdivision (b), including all of the instruction required by subdivision (c), 54 weeks shall be performed in a hospital that sponsors the instruction and shall meet one of the following:

(1) Is a formal part of the medical school or school of osteopathic medicine.

(2) Has a residency program, approved by the Accreditation Council for Graduate Medical Education (ACGME) or the Royal College of Physicians and Surgeons of Canada (RCPSC), in family practice or in the clinical area of the instruction for which credit is being sought.

(3) Is formally affiliated with an approved medical school or school of osteopathic medicine located in the United States or Canada. If the affiliation is limited in nature, credit shall be given only in the subject areas covered by the affiliation agreement.

(4) Is formally affiliated with a medical school or a school of osteopathic medicine located outside the United States or Canada.

1 (e) If the institution, specified in subdivision (d), is formally
2 affiliated with a medical school or a school of osteopathic medicine
3 located outside the United States or Canada, it shall meet the
4 following:

5 (1) The formal affiliation shall be documented by a written
6 contract detailing the relationship between the medical school, or
7 a school of osteopathic medicine, and hospital and the
8 responsibilities of each.

9 (2) The school and hospital shall provide to the board a
10 description of the clinical program. The description shall be in
11 sufficient detail to enable the board to determine whether or not
12 the program provides students an adequate medical education. The
13 board shall approve the program if it determines that the program
14 provides an adequate medical education. If the board does not
15 approve the program, it shall provide its reasons for disapproval
16 to the school and hospital in writing specifying its findings about
17 each aspect of the program that it considers to be deficient and the
18 changes required to obtain approval.

19 (3) The hospital, if located in the United States, shall be
20 accredited by the Joint Commission on Accreditation of Hospitals,
21 and if located in another country, shall be accredited in accordance
22 with the law of that country.

23 (4) The clinical instruction shall be supervised by a full-time
24 director of medical education, and the head of the department for
25 each core clinical course shall hold a full-time faculty appointment
26 of the medical school or school of osteopathic medicine and shall
27 be board certified or eligible, or have an equivalent credential in
28 that specialty area appropriate to the country in which the hospital
29 is located.

30 (5) The clinical instruction shall be conducted pursuant to a
31 written program of instruction provided by the school.

32 (6) The school shall supervise the implementation of the
33 program on a regular basis, documenting the level and extent of
34 its supervision.

35 (7) The hospital-based faculty shall evaluate each student on a
36 regular basis and shall document the completion of each aspect of
37 the program for each student.

38 (8) The hospital shall ensure a minimum daily census adequate
39 to meet the instructional needs of the number of students enrolled

1 in each course area of clinical instruction, but not less than 15
2 patients in each course area of clinical instruction.

3 (9) The board, in reviewing the application of a foreign medical
4 graduate, may require the applicant to submit a description of the
5 clinical program, if the board has not previously approved the
6 program, and may require the applicant to submit documentation
7 to demonstrate that the applicant's clinical training met the
8 requirements of this subdivision.

9 (10) The medical school or school of osteopathic medicine shall
10 bear the reasonable cost of any site inspection by the board or its
11 agents necessary to determine whether the clinical program offered
12 is in compliance with this subdivision.

13 SEC. 14. Section 2096 of the Business and Professions Code
14 is amended to read:

15 2096. In addition to other requirements of this chapter, before
16 a physician's and surgeon's license may be issued, each applicant,
17 including an applicant applying pursuant to Article 5 (commencing
18 with Section 2100), shall show by evidence satisfactory to the
19 board that he or she has satisfactorily completed at least one year
20 of postgraduate training, which includes at least four months of
21 general medicine, in a postgraduate training program approved by
22 the Accreditation Council for Graduate Medical Education
23 (ACGME) or Royal College of Physicians and Surgeons of Canada
24 (RCPSC).

25 The amendments made to this section at the 1987 portion of the
26 1987–88 session of the Legislature shall not apply to applicants
27 who completed their one year of postgraduate training on or before
28 July 1, 1990.

29 SEC. 15. Section 2102 of the Business and Professions Code
30 is amended to read:

31 2102. Any applicant whose professional instruction was
32 acquired in a country other than the United States or Canada shall
33 provide evidence satisfactory to the board of compliance with the
34 following requirements to be issued a physician's and surgeon's
35 certificate:

36 (a) Completion in a medical school or schools of a resident
37 course of professional instruction equivalent to that required by
38 Section 2089 and issuance to the applicant of a document
39 acceptable to the board that shows final and successful completion
40 of the course. However, nothing in this section shall be construed

1 to require the board to evaluate for equivalency any coursework
2 obtained at a medical school disapproved by the board pursuant
3 to this section.

4 (b) Certification by the Educational Commission for Foreign
5 Medical Graduates, or its equivalent, as determined by the board.
6 This subdivision shall apply to all applicants who are subject to
7 this section and who have not taken and passed the written
8 examination specified in subdivision (d) prior to June 1, 1986.

9 (c) Satisfactory completion of the postgraduate training required
10 under Section 2096. An applicant shall be required to have
11 substantially completed the professional instruction required in
12 subdivision (a) and shall be required to make application to the
13 board and have passed steps 1 and 2 of the written examination
14 relating to biomedical and clinical sciences prior to commencing
15 any postgraduate training in this state. In its discretion, the board
16 may authorize an applicant who is deficient in any education or
17 clinical instruction required by Sections 2089 and 2089.5 to make
18 up any deficiencies as a part of his or her postgraduate training
19 program, but that remedial training shall be in addition to the
20 postgraduate training required for licensure.

21 (d) Pass the written examination as provided under Article 9
22 (commencing with Section 2170). An applicant shall be required
23 to meet the requirements specified in subdivision (b) prior to being
24 admitted to the written examination required by this subdivision.

25 Nothing in this section prohibits the board from disapproving
26 any foreign medical school or from denying an application if, in
27 the opinion of the board, the professional instruction provided by
28 the medical school or the instruction received by the applicant is
29 not equivalent to that required in Article 4 (commencing with
30 Section 2080).

31 SEC. 16. Section 2107 of the Business and Professions Code
32 is amended to read:

33 2107. (a) The Legislature intends that the board shall have the
34 authority to substitute postgraduate education and training to
35 remedy deficiencies in an applicant's medical school education
36 and training. The Legislature further intends that applicants who
37 substantially completed their clinical training shall be granted that
38 substitute credit if their postgraduate education took place in an
39 accredited program.

(b) To meet the requirements for licensure set forth in Sections 2089 and 2089.5, the board may require an applicant under this article to successfully complete additional education and training. In determining the content and duration of the required additional education and training, the board shall consider the applicant's medical education and performance on standardized national examinations, and may substitute approved postgraduate training in lieu of specified undergraduate requirements. Postgraduate training substituted for undergraduate training shall be in addition to the postgraduate training required by Sections 2102 and 2103.

SEC. 17. Section 2135 of the Business and Professions Code is amended to read:

2135. The board shall issue a physician and surgeon's certificate to an applicant who meets all of the following requirements:

(a) The applicant holds an unlimited license as a physician and surgeon in another state or states, or in a Canadian province or Canadian provinces, which was issued upon:

(1) Successful completion of a resident course of professional instruction leading to a degree of medical doctor equivalent to that specified in Section 2089. However, nothing in this section shall be construed to require the board to evaluate for equivalency any coursework obtained at a medical school disapproved by the board pursuant to Article 4 (commencing with Section 2080).

(2) Taking and passing a written examination that is recognized by the board to be equivalent in content to that administered in California.

(b) The applicant has held an unrestricted license to practice medicine, in a state or states, in a Canadian province or Canadian provinces, or as a member of the active military, United States Public Health Services, or other federal program, for a period of at least four years. Any time spent by the applicant in an approved postgraduate training program or clinical fellowship acceptable to the board shall not be included in the calculation of this four-year period.

(c) The board determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine that the

1 board determines constitutes evidence of a pattern of negligence
2 or incompetence.

3 (d) The applicant (1) has satisfactorily completed at least one
4 year of approved postgraduate training and is certified by a
5 specialty board approved by the American Board of Medical
6 Specialties or approved by the board pursuant to subdivision (h)
7 of Section 651; (2) has satisfactorily completed at least two years
8 of approved postgraduate training; or (3) has satisfactorily
9 completed at least one year of approved postgraduate training and
10 takes and passes the clinical competency written examination.

11 (e) The applicant has not committed any acts or crimes
12 constituting grounds for denial of a certificate under Division 1.5
13 (commencing with Section 475) or Article 12 (commencing with
14 Section 2220).

15 (f) Any application received from an applicant who has held an
16 unrestricted license to practice medicine, in a state or states, or
17 Canadian province or Canadian provinces, or as a member of the
18 active military, United States Public Health Services, or other
19 federal program for four or more years shall be reviewed and
20 processed pursuant to this section. Any time spent by the applicant
21 in an approved postgraduate training program or clinical fellowship
22 acceptable to the board shall not be included in the calculation of
23 this four-year period. This subdivision does not apply to
24 applications that may be reviewed and processed pursuant to
25 Section 2151.

26 SEC. 18. Section 2168.4 of the Business and Professions Code
27 is amended to read:

28 2168.4. (a) A special faculty permit expires and becomes
29 invalid at midnight on the last day of the permitholder's birth
30 month during the second year of a two-year term, if not renewed.

31 (b) A person who holds a special faculty permit shall show at
32 the time of license renewal that he or she continues to meet the
33 eligibility criteria set forth in Section 2168.1. After the first renewal
34 of a special faculty permit, the permitholder shall not be required
35 to hold a full-time faculty position, and may instead be employed
36 part-time in a position that otherwise meets the requirements set
37 forth in paragraph (1) of subdivision (a) of Section 2168.1.

38 (c) A person who holds a special faculty permit shall show at
39 the time of license renewal that he or she meets the continuing

1 medical education requirements of Article 10 (commencing with
2 Section 2190).

3 (d) In addition to the requirements set forth above, a special
4 faculty permit shall be renewed in accordance with Article 19
5 (commencing with Section 2420) in the same manner as a
6 physician's and surgeon's certificate.

7 (e) Those fees applicable to a physician's and surgeon's
8 certificate shall also apply to a special faculty permit and shall be
9 paid into the State Treasury and credited to the Contingent Fund
10 of the Medical Board of California.

11 SEC. 19. Section 2169 is added to the Business and Professions
12 Code, to read:

13 2169. A person who holds a special faculty permit shall meet
14 the continuing medical education requirements set forth in Article
15 10 (commencing with Section 2190).

16 SEC. 20. Section 2172 of the Business and Professions Code
17 is repealed.

18 SEC. 21. Section 2173 of the Business and Professions Code
19 is repealed.

20 SEC. 22. Section 2174 of the Business and Professions Code
21 is repealed.

22 SEC. 23. Section 2175 of the Business and Professions Code
23 is amended to read:

24 2175. State examination records shall be kept on file by the
25 board until June 1, 2069. Examinees shall be known and designated
26 by number only, and the name attached to the number shall be kept
27 secret until the examinee is sent notification of the results of the
28 examinations.

29 SEC. 24. Section 2221 of the Business and Professions Code
30 is amended to read:

31 2221. (a) The board may deny a physician's and surgeon's
32 certificate to an applicant guilty of unprofessional conduct or of
33 any cause that would subject a licensee to revocation or suspension
34 of his or her license; or, the board in its sole discretion, may issue
35 a probationary physician's and surgeon's certificate to an applicant
36 subject to terms and conditions, including, but not limited to, any
37 of the following conditions of probation:

38 (1) Practice limited to a supervised, structured environment
39 where the licensee's activities shall be supervised by another
40 physician and surgeon.

1 (2) Total or partial restrictions on drug prescribing privileges
2 for controlled substances.

3 (3) Continuing medical or psychiatric treatment.

4 (4) Ongoing participation in a specified rehabilitation program.

5 (5) Enrollment and successful completion of a clinical training
6 program.

7 (6) Abstention from the use of alcohol or drugs.

8 (7) Restrictions against engaging in certain types of medical
9 practice.

10 (8) Compliance with all provisions of this chapter.

11 (9) Payment of the cost of probation monitoring.

12 (b) The board may modify or terminate the terms and conditions
13 imposed on the probationary certificate upon receipt of a petition
14 from the licensee. The board may assign the petition to an
15 administrative law judge designated in Section 11371 of the
16 Government Code. After a hearing on the petition, the
17 administrative law judge shall provide a proposed decision to the
18 board.

19 (c) The board shall deny a physician's and surgeon's certificate
20 to an applicant who is required to register pursuant to Section 290
21 of the Penal Code. This subdivision does not apply to an applicant
22 who is required to register as a sex offender pursuant to Section
23 290 of the Penal Code solely because of a misdemeanor conviction
24 under Section 314 of the Penal Code.

25 (d) An applicant shall not be eligible to reapply for a physician's
26 and surgeon's certificate for a minimum of three years from the
27 effective date of the denial of his or her application, except that
28 the board may, in its discretion and for good cause demonstrated,
29 permit reapplication after not less than one year has elapsed from
30 the effective date of the denial.

31 *SEC. 24.5. Section 2221 of the Business and Professions Code*
32 *is amended to read:*

33 2221. (a) ~~The Division of Licensing~~ board may deny a
34 physician's and surgeon's certificate to an applicant guilty of
35 unprofessional conduct or of any cause that would subject a
36 licensee to revocation or suspension of his or her license; or, the
37 ~~division~~ board in its sole discretion, may issue a probationary
38 physician's and surgeon's certificate to an applicant subject to
39 terms and conditions, including, but not limited to, any of the
40 following conditions of probation:

1 (1) Practice limited to a supervised, structured environment
2 where the licensee's activities shall be supervised by another
3 physician and surgeon.

4 (2) Total or partial restrictions on drug prescribing privileges
5 for controlled substances.

6 (3) Continuing medical or psychiatric treatment.

7 (4) Ongoing participation in a specified rehabilitation program.

8 (5) Enrollment and successful completion of a clinical training
9 program.

10 (6) Abstention from the use of alcohol or drugs.

11 (7) Restrictions against engaging in certain types of medical
12 practice.

13 (8) Compliance with all provisions of this chapter.

14 (9) Payment of the cost of probation monitoring.

15 (b) ~~The Division of Licensing~~ *board* may modify or terminate
16 the terms and conditions imposed on the probationary certificate
17 upon receipt of a petition from the licensee. *The board may assign*
18 *the petition to an administrative law judge designated in Section*
19 *11371 of the Government Code. After a hearing on the petition,*
20 *the administrative law judge shall provide a proposed decision to*
21 *the board.*

22 ~~(e) Enforcement and monitoring of the probationary conditions~~
23 ~~shall be under the jurisdiction of the Division of Medical Quality~~
24 ~~in conjunction with the administrative hearing procedures~~
25 ~~established pursuant to Sections 11371, 11372, 11373, and 11529~~
26 ~~of the Government Code, and the review procedures set forth in~~
27 ~~Section 2335.~~

28 ~~(d)~~

29 (c) ~~The Division of Licensing~~ *board* shall deny a physician's
30 and surgeon's certificate to an applicant who is required to register
31 pursuant to Section 290 of the Penal Code. This subdivision does
32 not apply to an applicant who is required to register as a sex
33 offender pursuant to Section 290 of the Penal Code solely because
34 of a misdemeanor conviction under Section 314 of the Penal Code.

35 ~~(e)~~

36 (d) An applicant shall not be eligible to reapply for a physician's
37 and surgeon's certificate for a minimum of three years from the
38 effective date of the *final decision or action regarding the denial*
39 *of his or her application, except that the* ~~division~~ *board* may, in its
40 discretion and for good cause demonstrated, permit reapplication

1 after not less than one year has elapsed from the effective date of
2 the *final decision or action regarding the denial*.

3 SEC. 25. Section 2307 of the Business and Professions Code
4 is amended to read:

5 2307. (a) A person whose certificate has been surrendered
6 while under investigation or while charges are pending or whose
7 certificate has been revoked or suspended or placed on probation,
8 may petition the board for reinstatement or modification of penalty,
9 including modification or termination of probation.

10 (b) The person may file the petition after a period of not less
11 than the following minimum periods have elapsed from the
12 effective date of the surrender of the certificate or the decision
13 ordering that disciplinary action:

14 (1) At least three years for reinstatement of a license surrendered
15 or revoked for unprofessional conduct, except that the board may,
16 for good cause shown, specify in a revocation order that a petition
17 for reinstatement may be filed after two years.

18 (2) At least two years for early termination of probation of three
19 years or more.

20 (3) At least one year for modification of a condition, or
21 reinstatement of a license surrendered or revoked for mental or
22 physical illness, or termination of probation of less than three years.

23 (c) The petition shall state any facts as may be required by the
24 board. The petition shall be accompanied by at least two verified
25 recommendations from physicians and surgeons licensed in any
26 state who have personal knowledge of the activities of the petitioner
27 since the disciplinary penalty was imposed.

28 (d) The petition may be heard by a panel of the board. The board
29 may assign the petition to an administrative law judge designated
30 in Section 11371 of the Government Code. After a hearing on the
31 petition, the administrative law judge shall provide a proposed
32 decision to the board or the California Board of Podiatric Medicine,
33 as applicable, which shall be acted upon in accordance with Section
34 2335.

35 (e) The panel of the board or the administrative law judge
36 hearing the petition may consider all activities of the petitioner
37 since the disciplinary action was taken, the offense for which the
38 petitioner was disciplined, the petitioner's activities during the
39 time the certificate was in good standing, and the petitioner's
40 rehabilitative efforts, general reputation for truth, and professional

1 ability. The hearing may be continued from time to time as the
2 administrative law judge designated in Section 11371 of the
3 Government Code finds necessary.

4 (f) The administrative law judge designated in Section 11371
5 of the Government Code reinstating a certificate or modifying a
6 penalty may recommend the imposition of any terms and conditions
7 deemed necessary.

8 (g) No petition shall be considered while the petitioner is under
9 sentence for any criminal offense, including any period during
10 which the petitioner is on court-imposed probation or parole. No
11 petition shall be considered while there is an accusation or petition
12 to revoke probation pending against the person. The board may
13 deny without a hearing or argument any petition filed pursuant to
14 this section within a period of two years from the effective date
15 of the prior decision following a hearing under this section.

16 (h) This section is applicable to and may be carried out with
17 regard to licensees of the California Board of Podiatric Medicine.
18 In lieu of two verified recommendations from physicians and
19 surgeons, the petition shall be accompanied by at least two verified
20 recommendations from doctors of podiatric medicine licensed in
21 any state who have personal knowledge of the activities of the
22 petitioner since the date the disciplinary penalty was imposed.

23 (i) Nothing in this section shall be deemed to alter Sections 822
24 and 823.

25 SEC. 26. Section 2335 of the Business and Professions Code
26 is amended to read:

27 2335. (a) All proposed decisions and interim orders of the
28 Medical Quality Hearing Panel designated in Section 11371 of the
29 Government Code shall be transmitted to the executive director
30 of the board, or the executive director of the California Board of
31 Podiatric Medicine as to the licensees of that board, within 48
32 hours of filing.

33 (b) All interim orders shall be final when filed.

34 (c) A proposed decision shall be acted upon by the board or by
35 any panel appointed pursuant to Section 2008 or by the California
36 Board of Podiatric Medicine, as the case may be, in accordance
37 with Section 11517 of the Government Code, except that all of the
38 following shall apply to proceedings against licensees under this
39 chapter:

1 (1) When considering a proposed decision, the board or panel
2 and the California Board of Podiatric Medicine shall give great
3 weight to the findings of fact of the administrative law judge,
4 except to the extent those findings of fact are controverted by new
5 evidence.

6 (2) The board's staff or the staff of the California Board of
7 Podiatric Medicine shall poll the members of the board or panel
8 or of the California Board of Podiatric Medicine by written mail
9 ballot concerning the proposed decision. The mail ballot shall be
10 sent within 10 calendar days of receipt of the proposed decision,
11 and shall poll each member on whether the member votes to
12 approve the decision, to approve the decision with an altered
13 penalty, to refer the case back to the administrative law judge for
14 the taking of additional evidence, to defer final decision pending
15 discussion of the case by the panel or board as a whole, or to
16 nonadopt the decision. No party to the proceeding, including
17 employees of the agency that filed the accusation, and no person
18 who has a direct or indirect interest in the outcome of the
19 proceeding or who presided at a previous stage of the decision,
20 may communicate directly or indirectly, upon the merits of a
21 contested matter while the proceeding is pending, with any member
22 of the panel or board, without notice and opportunity for all parties
23 to participate in the communication. The votes of a majority of the
24 board or of the panel, and a majority of the California Board of
25 Podiatric Medicine, are required to approve the decision with an
26 altered penalty, to refer the case back to the administrative law
27 judge for the taking of further evidence, or to nonadopt the
28 decision. The votes of two members of the panel or board are
29 required to defer final decision pending discussion of the case by
30 the panel or board as a whole. If there is a vote by the specified
31 number to defer final decision pending discussion of the case by
32 the panel or board as a whole, provision shall be made for that
33 discussion before the 100-day period specified in paragraph (3)
34 expires, but in no event shall that 100-day period be extended.

35 (3) If a majority of the board or of the panel, or a majority of
36 the California Board of Podiatric Medicine vote to do so, the board
37 or the panel or the California Board of Podiatric Medicine shall
38 issue an order of nonadoption of a proposed decision within 100
39 calendar days of the date it is received by the board. If the board
40 or the panel or the California Board of Podiatric Medicine does

1 not refer the case back to the administrative law judge for the
2 taking of additional evidence or issue an order of nonadoption
3 within 100 days, the decision shall be final and subject to review
4 under Section 2337. Members of the board or of any panel or of
5 the California Board of Podiatric Medicine who review a proposed
6 decision or other matter and vote by mail as provided in paragraph
7 (2) shall return their votes by mail to the board within 30 days
8 from receipt of the proposed decision or other matter.

9 (4) The board or the panel or the California Board of Podiatric
10 Medicine shall afford the parties the opportunity to present oral
11 argument before deciding a case after nonadoption of the
12 administrative law judge's decision.

13 (5) A vote of a majority of the board or of a panel, or a majority
14 of the California Board of Podiatric Medicine, are required to
15 increase the penalty from that contained in the proposed
16 administrative law judge's decision. No member of the board or
17 panel or of the California Board of Podiatric Medicine may vote
18 to increase the penalty except after reading the entire record and
19 personally hearing any additional oral argument and evidence
20 presented to the panel or board.

21 SEC. 27. Section 2486 of the Business and Professions Code
22 is amended to read:

23 2486. The Medical Board of California shall issue, upon the
24 recommendation of the board, a certificate to practice podiatric
25 medicine if the applicant has submitted directly to the board from
26 the credentialing organizations verification that he or she meets
27 all of the following requirements:

28 (a) The applicant has graduated from an approved school or
29 college of podiatric medicine and meets the requirements of Section
30 2483.

31 (b) The applicant, within the past 10 years, has passed parts I,
32 II, and III of the examination administered by the National Board
33 of Podiatric Medical Examiners of the United States or has passed
34 a written examination that is recognized by the board to be the
35 equivalent in content to the examination administered by the
36 National Board of Podiatric Medical Examiners of the United
37 States.

38 (c) The applicant has satisfactorily completed the postgraduate
39 training required by Section 2484.

1 (d) The applicant has passed within the past 10 years any oral
2 and practical examination that may be required of all applicants
3 by the board to ascertain clinical competence.

4 (e) The applicant has committed no acts or crimes constituting
5 grounds for denial of a certificate under Division 1.5 (commencing
6 with Section 475).

7 (f) The board determines that no disciplinary action has been
8 taken against the applicant by any podiatric licensing authority
9 and that the applicant has not been the subject of adverse judgments
10 or settlements resulting from the practice of podiatric medicine
11 that the board determines constitutes evidence of a pattern of
12 negligence or incompetence.

13 (g) A disciplinary databank report regarding the applicant is
14 received by the board from the Federation of Podiatric Medical
15 Boards.

16 SEC. 28. Section 2488 of the Business and Professions Code
17 is amended to read:

18 2488. Notwithstanding any other provision of law, the Medical
19 Board of California shall issue, upon the recommendation of the
20 board, a certificate to practice podiatric medicine by credentialing
21 if the applicant has submitted directly to the board from the
22 credentialing organizations verification that he or she is licensed
23 as a doctor of podiatric medicine in any other state and meets all
24 of the following requirements:

25 (a) The applicant has graduated from an approved school or
26 college of podiatric medicine.

27 (b) The applicant, within the past 10 years, has passed either
28 part III of the examination administered by the National Board of
29 Podiatric Medical Examiners of the United States or a written
30 examination that is recognized by the board to be the equivalent
31 in content to the examination administered by the National Board
32 of Podiatric Medical Examiners of the United States.

33 (c) The applicant has satisfactorily completed a postgraduate
34 training program approved by the Council on Podiatric Medical
35 Education.

36 (d) The applicant, within the past 10 years, has passed any oral
37 and practical examination that may be required of all applicants
38 by the board to ascertain clinical competence.

1 (e) The applicant has committed no acts or crimes constituting
2 grounds for denial of a certificate under Division 1.5 (commencing
3 with Section 475).

4 (f) The board determines that no disciplinary action has been
5 taken against the applicant by any podiatric licensing authority
6 and that the applicant has not been the subject of adverse judgments
7 or settlements resulting from the practice of podiatric medicine
8 that the board determines constitutes evidence of a pattern of
9 negligence or incompetence.

10 (g) A disciplinary databank report regarding the applicant from
11 the Federation of Podiatric Medical Boards.

12 SEC. 29. Section 2570.5 of the Business and Professions Code
13 is amended to read:

14 2570.5. (a) A limited permit may be granted to any person
15 who has completed the education and experience requirements of
16 this chapter.

17 (b) A person who meets the qualifications to be admitted to the
18 examination for licensure or certification under this chapter and
19 is waiting to take the examination or awaiting the announcement
20 of the results of the examination, according to the application
21 requirements for a limited permit, may practice as an occupational
22 therapist or as an occupational therapy assistant under the direction
23 and appropriate supervision of an occupational therapist duly
24 licensed under this chapter. If that person fails to pass the
25 examination during the initial eligibility period, all privileges under
26 this section shall automatically cease upon due notice to the
27 applicant of that failure and may not be renewed.

28 (c) A limited permit shall be subject to other requirements set
29 forth in rules adopted by the board.

30 SEC. 30. Section 2570.6 of the Business and Professions Code
31 is amended to read:

32 2570.6. An applicant applying for a license as an occupational
33 therapist or certification as an occupational therapy assistant shall
34 file with the board a written application provided by the board,
35 showing to the satisfaction of the board that he or she meets all of
36 the following requirements:

37 (a) That the applicant is in good standing and has not committed
38 acts or crimes constituting grounds for denial of a license under
39 Section 480.

(b) (1) That the applicant has successfully completed the academic requirements of an educational program for occupational therapists or occupational therapy assistants that is approved by the board and accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or accredited or approved by the American Occupational Therapy Association's (AOTA) predecessor organization, or approved by AOTA's Career Mobility Program.

(2) The curriculum of an educational program for occupational therapists shall contain the content required by the ACOTE accreditation standards, or as approved by AOTA's predecessor organization, or as approved by AOTA's Career Mobility Program, including all of the following subjects:

- (A) Biological, behavioral, and health sciences.
- (B) Structure and function of the human body, including anatomy, kinesiology, physiology, and the neurosciences.
- (C) Human development throughout the lifespan.
- (D) Human behavior in the context of sociocultural systems.
- (E) Etiology, clinical course, management, and prognosis of disease processes and traumatic injuries, and the effects of those conditions on human functioning.

(F) Occupational therapy theory, practice, and processes.

(3) The curriculum of an educational program for occupational therapy assistants shall contain the content required by the ACOTE accreditation standards, or as approved or accredited by AOTA's predecessor organization, including all of the following subjects:

- (A) Biological, behavioral, and health sciences.
- (B) Structure and function of the normal human body.
- (C) Human development.
- (D) Conditions commonly referred to occupational therapists.
- (E) Occupational therapy principles and skills.

(c) (1) For an applicant who is a graduate of an occupational therapy or occupational therapy assistant educational program who is unable to provide evidence of having met the requirements of paragraph (2) or (3) of subdivision (b), he or she may demonstrate passage of the examination administered by the National Board for Certification in Occupational Therapy, the American Occupational Therapy Certification Board, or the American Occupational Therapy Association, as evidence of having

1 successfully satisfied the requirements of paragraph (2) or (3) of
2 subdivision (b).

3 (2) For an applicant who completed AOTA's Career Mobility
4 Program, he or she shall demonstrate participation in the program
5 and passage of the examination administered by the National Board
6 for Certification in Occupational Therapy, the American
7 Occupational Therapy Certification Board, or the American
8 Occupational Therapy Association, as evidence of having
9 successfully satisfied the requirements of paragraphs (1) and (2)
10 of subdivision (b).

11 (d) That the applicant has successfully completed a period of
12 supervised fieldwork experience approved by the board and
13 arranged by a recognized educational institution where he or she
14 met the academic requirements of subdivision (b) or (c) or arranged
15 by a nationally recognized professional association. The fieldwork
16 requirements for applicants applying for licensure as an
17 occupational therapist or certification as an occupational therapy
18 assistant shall be consistent with the requirements of the ACOTE
19 accreditation standards, or AOTA's predecessor organization, or
20 AOTA's Career Mobility Program, that were in effect when the
21 applicant completed his or her educational program.

22 (e) That the applicant has passed an examination as provided
23 in Section 2570.7.

24 (f) That the applicant, at the time of application, is a person over
25 18 years of age, is not addicted to alcohol or any controlled
26 substance, and has not committed acts or crimes constituting
27 grounds for denial of licensure or certification under Section 480.

28 SEC. 31. Section 2570.7 of the Business and Professions Code
29 is amended to read:

30 2570.7. (a) An applicant who has satisfied the requirements
31 of Section 2570.6 may apply for examination for licensure or
32 certification in a manner prescribed by the board. Subject to the
33 provisions of this chapter, an applicant who fails an examination
34 may apply for reexamination.

35 (b) Each applicant for licensure or certification shall successfully
36 complete the entry level certification examination for occupational
37 therapists or occupational therapy assistants approved by the board,
38 such as the examination administered by the National Board for
39 Certification in Occupational Therapy, the American Occupational
40 Therapy Certification Board, or the American Occupational

1 Therapy Association. The examination shall be appropriately
2 validated. Each applicant shall be examined by written examination
3 to test his or her knowledge of the basic and clinical sciences
4 relating to occupational therapy, occupational therapy techniques
5 and methods, and any other subjects that the board may require to
6 determine the applicant's fitness to practice under this chapter.

7 (c) Applicants for licensure or certification shall be examined
8 at a time and place and under that supervision as the board may
9 require.

10 SEC. 32. Section 2570.185 of the Business and Professions
11 Code is amended and renumbered to read:

12 2570.18.5. (a) An occupational therapist shall document his
13 or her evaluation, goals, treatment plan, and summary of treatment
14 in the patient record.

15 (b) An occupational therapy assistant shall document the services
16 provided in the patient record.

17 (c) Occupational therapists and occupational therapy assistants
18 shall document and sign the patient record legibly.

19 (d) Patient records shall be maintained for a period of no less
20 than seven years following the discharge of the patient, except that
21 the records of unemancipated minors shall be maintained at least
22 one year after the minor has reached the age of 18 years, and not
23 in any case less than seven years.

24 SEC. 33. Section 2570.36 is added to the Business and
25 Professions Code, to read:

26 2570.36. If a licensee has knowledge that an applicant or
27 licensee may be in violation of, or has violated, any of the statutes
28 or regulations administered by the board, the licensee shall report
29 this information to the board in writing and shall cooperate with
30 the board in providing information or assistance as may be
31 required.

32 SEC. 34. Section 2760.1 of the Business and Professions Code
33 is amended to read:

34 2760.1. (a) A registered nurse whose license has been revoked
35 or suspended or who has been placed on probation may petition
36 the board for reinstatement or modification of penalty, including
37 reduction or termination of probation, after a period not less than
38 the following minimum periods has elapsed from the effective
39 date of the decision ordering that disciplinary action, or if the order
40 of the board or any portion of it is stayed by the board itself or by

1 the superior court, from the date the disciplinary action is actually
2 implemented in its entirety, or for a registered nurse whose initial
3 license application is subject to a disciplinary decision, from the
4 date the initial license was issued:

5 (1) Except as otherwise provided in this section, at least three
6 years for reinstatement of a license that was revoked, except that
7 the board may, in its sole discretion, specify in its order a lesser
8 period of time provided that the period shall be not less than one
9 year.

10 (2) At least two years for early termination of a probation period
11 of three years or more.

12 (3) At least one year for modification of a condition, or
13 reinstatement of a license revoked for mental or physical illness,
14 or termination of probation of less than three years.

15 (b) The board shall give notice to the Attorney General of the
16 filing of the petition. The petitioner and the Attorney General shall
17 be given timely notice by letter of the time and place of the hearing
18 on the petition, and an opportunity to present both oral and
19 documentary evidence and argument to the board. The petitioner
20 shall at all times have the burden of proof to establish by clear and
21 convincing evidence that he or she is entitled to the relief sought
22 in the petition.

23 (c) The hearing may be continued from time to time as the board
24 deems appropriate.

25 (d) The board itself shall hear the petition and the administrative
26 law judge shall prepare a written decision setting forth the reasons
27 supporting the decision.

28 (e) The board may grant or deny the petition, or may impose
29 any terms and conditions that it reasonably deems appropriate as
30 a condition of reinstatement or reduction of penalty.

31 (f) The petitioner shall provide a current set of fingerprints
32 accompanied by the necessary fingerprinting fee.

33 (g) No petition shall be considered while the petitioner is under
34 sentence for any criminal offense, including any period during
35 which the petitioner is on court-imposed probation or parole, or
36 subject to an order of registration pursuant to Section 290 of the
37 Penal Code. No petition shall be considered while there is an
38 accusation or petition to revoke probation pending against the
39 petitioner.

1 (h) Except in those cases where the petitioner has been
2 disciplined pursuant to Section 822, the board may in its discretion
3 deny without hearing or argument any petition that is filed pursuant
4 to this section within a period of two years from the effective date
5 of a prior decision following a hearing under this section.

6 SEC. 35. Section 3503 of the Business and Professions Code
7 is amended to read:

8 3503. No person other than one who has been licensed to
9 practice as a physician assistant shall practice as a physician
10 assistant or in a similar capacity to a physician and surgeon or
11 podiatrist or hold himself or herself out as a “physician assistant,”
12 or shall use any other term indicating or implying that he or she
13 is a physician assistant.

14 SEC. 36. Section 3517 of the Business and Professions Code
15 is amended to read:

16 3517. The committee shall require a written examination of
17 physician assistants in the manner and under the rules and
18 regulations as it shall prescribe, but the examination shall be
19 conducted in that manner as to ensure that the identity of each
20 applicant taking the examination will be unknown to all of the
21 examiners until all examination papers have been graded. Except
22 as otherwise provided in this chapter, or by regulation, no physician
23 assistant applicant shall receive approval under this chapter without
24 first successfully passing an examination given under the direction
25 of the committee.

26 Examinations for licensure as a physician assistant may be
27 required by the committee under a uniform examination system,
28 and for that purpose the committee may make those arrangements
29 with organizations furnishing examination material as may, in its
30 discretion, be desirable. The committee shall, however, establish
31 a passing score for each examination. The licensure examination
32 for physician assistants shall be held by the committee at least
33 once a year with such additional examinations as the committee
34 deems necessary. The time and place of examination shall be fixed
35 by the committee.

36 SEC. 37. Section 3518 of the Business and Professions Code
37 is amended to read:

38 3518. The committee shall keep current, two separate registers,
39 one for approved supervising physicians and one for licensed
40 physician’s assistants, by specialty if applicable. These registers

1 shall show the name of each licensee, his or her last known address
2 of record, and the date of his or her licensure or approval. Any
3 interested person is entitled to obtain a copy of the register in
4 accordance with the Information Practices Act of 1977 (Chapter
5 1 (commencing with Section 1798) of Title 1.8 of Part 4 of
6 Division 3 of the Civil Code) upon application to the committee
7 together with a sum as may be fixed by the committee, which
8 amount shall not exceed the cost of this list so furnished.

9 SEC. 38. Section 3625 of the Business and Professions Code
10 is amended to read:

11 3625. (a) The Director of Consumer Affairs shall establish an
12 advisory council consisting of nine members. Members of the
13 advisory council shall include three members who are California
14 licensed naturopathic doctors, or have met the requirements for
15 licensure pursuant to this chapter, three members who are
16 California licensed physicians and surgeons, and three public
17 members.

18 (b) A member of the advisory council shall be appointed for a
19 four-year term. A person shall not serve as a member of the council
20 for more than two consecutive terms. A member shall hold office
21 until the appointment and qualification of his or her successor, or
22 until one year from the expiration of the term for which the member
23 was appointed, whichever first occurs. Vacancies shall be filled
24 by appointment for unexpired terms. The first terms of the members
25 first appointed shall be as follows:

26 (1) The Governor shall appoint one physician and surgeon
27 member, one naturopathic doctor member, and one public member,
28 with term expirations of June 1, 2006; one physician and surgeon
29 member with a term expiration date of June 1, 2007; and one
30 naturopathic doctor member with a term expiration date of June
31 1, 2008.

32 (2) The Senate Committee on Rules shall appoint one physician
33 and surgeon member with a term expiration of June 1, 2008, and
34 one public member with a term expiration of June 1, 2007.

35 (3) The Speaker of the Assembly shall appoint one naturopathic
36 doctor member with a term expiration of June 1, 2007, and one
37 public member with a term expiration of June 1, 2008.

38 (c) (1) A public member of the advisory council shall be a
39 citizen of this state for at least five years preceding his or her
40 appointment.

1 (2) A person shall not be appointed as a public member if the
2 person or the person's immediate family in any manner owns an
3 interest in a college, school, or institution engaged in naturopathic
4 education, or the person or the person's immediate family has an
5 economic interest in naturopathy or has any other conflict of
6 interest. "Immediate family" means the public member's spouse,
7 parents, children, or his or her children's spouses.

8 (d) In order to operate in as cost-effective a manner as possible,
9 the advisory council and any advisory committee created pursuant
10 to this chapter shall meet as few times as necessary to perform its
11 duties.

12 SEC. 39. Section 3633.1 of the Business and Professions Code
13 is amended to read:

14 3633.1. The bureau may grant a license to an applicant who
15 meets the requirements of Section 3630, but who graduated prior
16 to 1986, pre-NPLEX, and passed a state or Canadian Province
17 naturopathic licensing examination. Applications under this section
18 shall be received no later than December 31, 2010.

19 SEC. 40. Section 3635 of the Business and Professions Code
20 is amended to read:

21 3635. (a) In addition to any other qualifications and
22 requirements for licensure renewal, the bureau shall require the
23 satisfactory completion of 60 hours of approved continuing
24 education biennially. This requirement is waived for the initial
25 license renewal. The continuing education shall meet the following
26 requirements:

27 (1) At least 20 hours shall be in pharmacotherapeutics.

28 (2) No more than 15 hours may be in naturopathic medical
29 journals or osteopathic or allopathic medical journals, or audio or
30 videotaped presentations, slides, programmed instruction, or
31 computer-assisted instruction or preceptorships.

32 (3) No more than 20 hours may be in any single topic.

33 (4) No more than 15 hours of the continuing education
34 requirements for the specialty certificate in naturopathic childbirth
35 attendance shall apply to the 60 hours of continuing education
36 requirement.

37 (b) The continuing education requirements of this section may
38 be met through continuing education courses approved by the
39 bureau, the California Naturopathic Doctors Association, the
40 American Association of Naturopathic Physicians, the California

1 State Board of Pharmacy, the State Board of Chiropractic
2 Examiners, or other courses that meet the standards for continuing
3 education for licensed physicians and surgeons in California.

4 SEC. 41. Section 3636 of the Business and Professions Code
5 is amended to read:

6 3636. (a) Upon a written request, the bureau may grant inactive
7 status to a naturopathic doctor who is in good standing and who
8 meets the requirements of Section 462.

9 (b) A person whose license is in inactive status may not engage
10 in any activity for which a license is required under this chapter.

11 (c) A person whose license is in inactive status shall be exempt
12 from continuing education requirements while his or her license
13 is in that status.

14 (d) To restore a license to active status, a person whose license
15 is in inactive status must fulfill continuing education requirements
16 for the two-year period prior to reactivation, and be current with
17 all licensing fees as determined by the bureau.

18 SEC. 42. Section 3685 of the Business and Professions Code
19 is amended to read:

20 3685. (a) This chapter shall become inoperative on July 1,
21 2010, and, as of January 1, 2011, is repealed, unless a later enacted
22 statute that is enacted before January 1, 2011, deletes or extends
23 the dates on which it becomes inoperative and is repealed. The
24 repeal of this chapter renders the bureau subject to the review
25 required by Division 1.2 (commencing with Section 473).

26 (b) The bureau shall prepare the report required by Section 473.2
27 no later than September 1, 2008.

28 SEC. 43. Section 3750.5 of the Business and Professions Code
29 is amended to read:

30 3750.5. In addition to any other grounds specified in this
31 chapter, the board may deny, suspend, or revoke the license of any
32 applicant or licenseholder who has done any of the following:

33 (a) Obtained, possessed, used, or administered to himself or
34 herself, in violation of law, or furnished or administered to another,
35 any controlled substances, as defined in Division 10 (commencing
36 with Section 11000) of the Health and Safety Code, or any
37 dangerous drug, as defined in Article 2 (commencing with Section
38 4015) of Chapter 9, except as directed by a licensed physician and
39 surgeon, dentist, podiatrist, or other authorized health care provider.

1 (b) Used, while licensed or applying for a license under this
2 chapter, any controlled substance as defined in Division 10
3 (commencing with Section 11000) of the Health and Safety Code,
4 any dangerous drug as defined in Article 2 (commencing with
5 Section 4015) of Chapter 9, or any alcoholic beverage, to an extent
6 or in a manner dangerous or injurious to himself or herself, another
7 person, or the public, or to the extent that the use impaired his or
8 her ability to conduct with safety to the public the practice
9 authorized by this chapter.

10 (c) Applied for employment or worked in any health care
11 profession or environment while under the influence of alcohol.

12 (d) Been convicted of a criminal offense involving the
13 consumption or self-administration of any of the substances
14 described in subdivision (a), or the possession of, or falsification
15 of a record pertaining to, the substances described in subdivision
16 (a), in which event the record of the conviction is conclusive
17 evidence thereof.

18 (e) Been committed or confined by a court of competent
19 jurisdiction for intemperate use of or addiction to the use of any
20 of the substances described in subdivisions (a), (b), and (c), in
21 which event the court order of commitment or confinement is
22 prima facie evidence of that commitment or confinement.

23 (f) Falsified, or made grossly incorrect, grossly inconsistent, or
24 unintelligible entries in any hospital, patient, or other record
25 pertaining to the substances described in subdivision (a).

26 SEC. 44. Section 3753.5 of the Business and Professions Code
27 is amended to read:

28 3753.5. (a) In any order issued in resolution of a disciplinary
29 proceeding before the board, the board or the administrative law
30 judge may direct any practitioner or applicant found to have
31 committed a violation or violations of law, or any term and
32 condition of board probation, to pay to the board a sum not to
33 exceed the costs of the investigation and prosecution of the case.
34 A certified copy of the actual costs, or a good faith estimate of
35 costs where actual costs are not available, signed by the official
36 custodian of the record or his or her designated representative shall
37 be prima facie evidence of the actual costs of the investigation and
38 prosecution of the case.

39 (b) The costs shall be assessed by the administrative law judge
40 and shall not be increased by the board; however, the costs may

1 be imposed or increased by the board if it does not adopt the
2 proposed decision of the case.

3 Where an order for recovery of costs is made and timely payment
4 is not made as directed in the board's decision the board may
5 enforce the order for repayment in any appropriate court. This
6 right of enforcement shall be in addition to any other rights the
7 board may have as to any practitioner directed to pay costs.

8 (c) In any action for recovery of costs, proof of the board's
9 decision shall be conclusive proof of the validity of the order of
10 payment and the terms for payment.

11 (d) (1) The board shall not renew or reinstate the license of any
12 licensee who has failed to pay all of the costs ordered under this
13 section.

14 (2) Notwithstanding paragraph (1), the board may, in its
15 discretion, conditionally renew, for a maximum of one year, the
16 license of any licensee who demonstrates financial hardship,
17 through documentation satisfactory to the board, and who enters
18 into a formal agreement with the board to reimburse the board
19 within that one-year period for those unpaid costs.

20 SEC. 45. Section 3773 of the Business and Professions Code
21 is amended to read:

22 3773. (a) At the time of application for renewal of a respiratory
23 care practitioner license, the licensee shall notify the board of all
24 of the following:

25 (1) Whether he or she has been convicted of any crime
26 subsequent to the licensee's previous renewal.

27 (2) The name and address of the licensee's current employer or
28 employers.

29 (b) The licensee shall cooperate in providing additional
30 information as requested by the board. If a licensee fails to provide
31 the requested information within 30 days, the license shall become
32 inactive until the information is received.

33 SEC. 46. Section 4022.5 of the Business and Professions Code
34 is amended to read:

35 4022.5. (a) "Designated representative" means an individual
36 to whom a license has been granted pursuant to Section 4053. A
37 pharmacist fulfilling the duties of Section 4053 shall not be
38 required to obtain a license as a designated representative.

39 (b) "Designated representative-in-charge" means a designated
40 representative or a pharmacist proposed by a wholesaler or

1 veterinary food-animal drug retailer and approved by the board as
2 the supervisor or manager responsible for ensuring the wholesaler's
3 or veterinary food-animal drug retailer's compliance with all state
4 and federal laws and regulations pertaining to practice in the
5 applicable license category.

6 (c) This section shall become operative on January 1, 2006.

7 SEC. 47. Section 4027 of the Business and Professions Code
8 is amended to read:

9 4027. (a) As used in this chapter, the terms "skilled nursing
10 facility," "intermediate care facility," and other references to health
11 facilities shall be construed with respect to the definitions contained
12 in Article 1 (commencing with Section 1250) of Chapter 2 of
13 Division 2 of the Health and Safety Code.

14 (b) As used in Section 4052.1, "licensed health care facility"
15 means a facility licensed pursuant to Article 1 (commencing with
16 Section 1250) of Chapter 2 of Division 2 of the Health and Safety
17 Code or a facility, as defined in Section 1250 of the Health and
18 Safety Code, operated by a health care service plan licensed
19 pursuant to Chapter 2.2 (commencing with Section 1340) of
20 Division 2 of the Health and Safety Code.

21 (c) As used in Section 4052.2, "health care facility" means a
22 facility, other than a facility licensed under Division 2
23 (commencing with Section 1200) of the Health and Safety Code,
24 that is owned or operated by a health care service plan licensed
25 pursuant to Chapter 2.2 (commencing with Section 1340) of the
26 Health and Safety Code, or by an organization under common
27 ownership or control of the health care service plan; "licensed
28 home health agency" means a private or public organization
29 licensed by the State Department of Health Services pursuant to
30 Chapter 8 (commencing with Section 1725) of Division 2 of the
31 Health and Safety Code, as further defined in Section 1727 of the
32 Health and Safety Code; and "licensed clinic" means a clinic
33 licensed pursuant to Article 1 (commencing with Section 1200)
34 of Chapter 1 of Division 2 of the Health and Safety Code.

35 (d) "Licensed health care facility" or "facility," as used in
36 Section 4065, means a health facility licensed pursuant to Article
37 1 (commencing with Section 1250) of Chapter 2 of Division 2 of
38 the Health and Safety Code or a facility that is owned or operated
39 by a health care service plan licensed pursuant to Chapter 2.2
40 (commencing with Section 1340) of Division 2 of the Health and

1 Safety Code or by an organization under common ownership or
2 control with the health care service plan.

3 SEC. 48. Section 4036.5 is added to the Business and
4 Professions Code, to read:

5 4036.5. "Pharmacist-in-charge" means a pharmacist proposed
6 by a pharmacy and approved by the board as the supervisor or
7 manager responsible for ensuring the pharmacy's compliance with
8 all state and federal laws and regulations pertaining to the practice
9 of pharmacy.

10 SEC. 49. Section 4040 of the Business and Professions Code
11 is amended to read:

12 4040. (a) "Prescription" means an oral, written, or electronic
13 transmission order that is both of the following:

14 (1) Given individually for the person or persons for whom
15 ordered that includes all of the following:

16 (A) The name or names and address of the patient or patients.

17 (B) The name and quantity of the drug or device prescribed and
18 the directions for use.

19 (C) The date of issue.

20 (D) Either rubber stamped, typed, or printed by hand or typeset,
21 the name, address, and telephone number of the prescriber, his or
22 her license classification, and his or her federal registry number,
23 if a controlled substance is prescribed.

24 (E) A legible, clear notice of the condition for which the drug
25 is being prescribed, if requested by the patient or patients.

26 (F) If in writing, signed by the prescriber issuing the order, or
27 the certified nurse-midwife, nurse practitioner, physician assistant,
28 or naturopathic doctor who issues a drug order pursuant to Section
29 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist
30 who issues a drug order pursuant to either Section 4052.1 or
31 4052.2.

32 (2) Issued by a physician, dentist, optometrist, podiatrist,
33 veterinarian, or naturopathic doctor pursuant to Section 3640.7 or,
34 if a drug order is issued pursuant to Section 2746.51, 2836.1,
35 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner,
36 physician assistant, or naturopathic doctor licensed in this state,
37 or pursuant to either Section 4052.1 or 4052.2 by a pharmacist
38 licensed in this state.

39 (b) Notwithstanding subdivision (a), a written order of the
40 prescriber for a dangerous drug, except for any Schedule II

1 controlled substance, that contains at least the name and signature
2 of the prescriber, the name and address of the patient in a manner
3 consistent with paragraph (2) of subdivision (a) of Section 11164
4 of the Health and Safety Code, the name and quantity of the drug
5 prescribed, directions for use, and the date of issue may be treated
6 as a prescription by the dispensing pharmacist as long as any
7 additional information required by subdivision (a) is readily
8 retrievable in the pharmacy. In the event of a conflict between this
9 subdivision and Section 11164 of the Health and Safety Code,
10 Section 11164 of the Health and Safety Code shall prevail.

11 (c) “Electronic transmission prescription” includes both image
12 and data prescriptions. “Electronic image transmission
13 prescription” means any prescription order for which a facsimile
14 of the order is received by a pharmacy from a licensed prescriber.
15 “Electronic data transmission prescription” means any prescription
16 order, other than an electronic image transmission prescription,
17 that is electronically transmitted from a licensed prescriber to a
18 pharmacy.

19 (d) The use of commonly used abbreviations shall not invalidate
20 an otherwise valid prescription.

21 (e) Nothing in the amendments made to this section (formerly
22 Section 4036) at the 1969 Regular Session of the Legislature shall
23 be construed as expanding or limiting the right that a chiropractor,
24 while acting within the scope of his or her license, may have to
25 prescribe a device.

26 SEC. 50. Section 4051 of the Business and Professions Code
27 is amended to read:

28 4051. (a) Except as otherwise provided in this chapter, it is
29 unlawful for any person to manufacture, compound, furnish, sell,
30 or dispense any dangerous drug or dangerous device, or to dispense
31 or compound any prescription pursuant to Section 4040 of a
32 prescriber unless he or she is a pharmacist under this chapter.

33 (b) Notwithstanding any other law, a pharmacist may authorize
34 the initiation of a prescription, pursuant to Section 4052.1, 4052.2,
35 or 4052.3, and otherwise provide clinical advice or information or
36 patient consultation if all of the following conditions are met:

37 (1) The clinical advice or information or patient consultation is
38 provided to a health care professional or to a patient.

(2) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.

(3) Access to the information described in paragraph (2) is secure from unauthorized access and use.

SEC. 51. Section 4059.5 of the Business and Professions Code is amended to read:

4059.5. (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous devices may only be ordered by an entity licensed by the board and shall be delivered to the licensed premises and signed for and received by a pharmacist. Where a licensee is permitted to operate through a designated representative, the designated representative shall sign for and receive the delivery.

(b) A dangerous drug or dangerous device transferred, sold, or delivered to a person within this state shall be transferred, sold, or delivered only to an entity licensed by the board, to a manufacturer, or to an ultimate user or the ultimate user's agent.

(c) Notwithstanding subdivisions (a) and (b), deliveries to a hospital pharmacy may be made to a central receiving location within the hospital. However, the dangerous drugs or dangerous devices shall be delivered to the licensed pharmacy premises within one working day following receipt by the hospital, and the pharmacist on duty at that time shall immediately inventory the dangerous drugs or dangerous devices.

(d) Notwithstanding any other provision of law, a dangerous drug or dangerous device may be ordered by and provided to a manufacturer, physician, dentist, podiatrist, optometrist, veterinarian, naturopathic doctor pursuant to Section 3640.7, or laboratory, or a physical therapist acting within the scope of his or her license. A person or entity receiving delivery of a dangerous drug or dangerous device, or a duly authorized representative of the person or entity, shall sign for the receipt of the dangerous drug or dangerous device.

(e) A dangerous drug or dangerous device shall not be transferred, sold, or delivered to a person outside this state, whether foreign or domestic, unless the transferor, seller, or deliverer does so in compliance with the laws of this state and of the United States and of the state or country to which the dangerous drugs or dangerous devices are to be transferred, sold, or delivered. Compliance with the laws of this state and the United States and

1 of the state or country to which the dangerous drugs or dangerous
2 devices are to be delivered shall include, but not be limited to,
3 determining that the recipient of the dangerous drugs or dangerous
4 devices is authorized by law to receive the dangerous drugs or
5 dangerous devices.

6 (f) Notwithstanding subdivision (a), a pharmacy may take
7 delivery of dangerous drugs and dangerous devices when the
8 pharmacy is closed and no pharmacist is on duty if all of the
9 following requirements are met:

10 (1) The drugs are placed in a secure storage facility in the same
11 building as the pharmacy.

12 (2) Only the pharmacist-in-charge or a pharmacist designated
13 by the pharmacist-in-charge has access to the secure storage facility
14 after dangerous drugs or dangerous devices have been delivered.

15 (3) The secure storage facility has a means of indicating whether
16 it has been entered after dangerous drugs or dangerous devices
17 have been delivered.

18 (4) The pharmacy maintains written policies and procedures for
19 the delivery of dangerous drugs and dangerous devices to a secure
20 storage facility.

21 (5) The agent delivering dangerous drugs and dangerous devices
22 pursuant to this subdivision leaves documents indicating the name
23 and amount of each dangerous drug or dangerous device delivered
24 in the secure storage facility.

25 The pharmacy shall be responsible for the dangerous drugs and
26 dangerous devices delivered to the secure storage facility. The
27 pharmacy shall also be responsible for obtaining and maintaining
28 records relating to the delivery of dangerous drugs and dangerous
29 devices to a secure storage facility.

30 (g) This section shall become operative on January 1, 2006.

31 SEC. 52. Section 4060 of the Business and Professions Code
32 is amended to read:

33 4060. No person shall possess any controlled substance, except
34 that furnished to a person upon the prescription of a physician,
35 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
36 pursuant to Section 3640.7, or furnished pursuant to a drug order
37 issued by a certified nurse-midwife pursuant to Section 2746.51,
38 a nurse practitioner pursuant to Section 2836.1, a physician
39 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant
40 to Section 3640.5, or a pharmacist pursuant to either Section 4052.1

1 or 4052.2. This section shall not apply to the possession of any
2 controlled substance by a manufacturer, wholesaler, pharmacy,
3 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
4 naturopathic doctor, certified nurse-midwife, nurse practitioner,
5 or physician assistant, when in stock in containers correctly labeled
6 with the name and address of the supplier or producer.

7 Nothing in this section authorizes a certified nurse-midwife, a
8 nurse practitioner, a physician assistant, or a naturopathic doctor,
9 to order his or her own stock of dangerous drugs and devices.

10 SEC. 53. Section 4062 of the Business and Professions Code
11 is amended to read:

12 4062. (a) Notwithstanding Section 4059 or any other provision
13 of law, a pharmacist may, in good faith, furnish a dangerous drug
14 or dangerous device in reasonable quantities without a prescription
15 during a federal, state, or local emergency, to further the health
16 and safety of the public. A record containing the date, name, and
17 address of the person to whom the drug or device is furnished, and
18 the name, strength, and quantity of the drug or device furnished
19 shall be maintained. The pharmacist shall communicate this
20 information to the patient's attending physician as soon as possible.
21 Notwithstanding Section 4060 or any other provision of law, a
22 person may possess a dangerous drug or dangerous device
23 furnished without prescription pursuant to this section.

24 (b) During a declared federal, state, or local emergency, the
25 board may waive application of any provisions of this chapter or
26 the regulations adopted pursuant to it if, in the board's opinion,
27 the waiver will aid in the protection of public health or the
28 provision of patient care.

29 (c) During a declared federal, state, or local emergency, the
30 board shall allow for the employment of a mobile pharmacy in
31 impacted areas in order to ensure the continuity of patient care, if
32 all of the following conditions are met:

33 (1) The mobile pharmacy shares common ownership with at
34 least one currently licensed pharmacy in good standing.

35 (2) The mobile pharmacy retains records of dispensing, as
36 required by subdivision (a).

37 (3) A licensed pharmacist is on the premises and the mobile
38 pharmacy is under the control and management of a pharmacist
39 while the drugs are being dispensed.

1 (4) Reasonable security measures are taken to safeguard the
2 drug supply maintained in the mobile pharmacy.

3 (5) The mobile pharmacy is located within the declared
4 emergency area or affected areas.

5 (6) The mobile pharmacy ceases the provision of services within
6 48 hours following the termination of the declared emergency.

7 SEC. 54. Section 4076 of the Business and Professions Code
8 is amended to read:

9 4076. (a) A pharmacist shall not dispense any prescription
10 except in a container that meets the requirements of state and
11 federal law and is correctly labeled with all of the following:

12 (1) Except where the prescriber or the certified nurse-midwife
13 who functions pursuant to a standardized procedure or protocol
14 described in Section 2746.51, the nurse practitioner who functions
15 pursuant to a standardized procedure described in Section 2836.1,
16 or protocol, the physician assistant who functions pursuant to
17 Section 3502.1, the naturopathic doctor who functions pursuant
18 to a standardized procedure or protocol described in Section
19 3640.5, or the pharmacist who functions pursuant to a policy,
20 procedure, or protocol pursuant to either Section 4052.1 or 4052.2
21 orders otherwise, either the manufacturer's trade name of the drug
22 or the generic name and the name of the manufacturer. Commonly
23 used abbreviations may be used. Preparations containing two or
24 more active ingredients may be identified by the manufacturer's
25 trade name or the commonly used name or the principal active
26 ingredients.

27 (2) The directions for the use of the drug.

28 (3) The name of the patient or patients.

29 (4) The name of the prescriber or, if applicable, the name of the
30 certified nurse-midwife who functions pursuant to a standardized
31 procedure or protocol described in Section 2746.51, the nurse
32 practitioner who functions pursuant to a standardized procedure
33 described in Section 2836.1, or protocol, the physician assistant
34 who functions pursuant to Section 3502.1, the naturopathic doctor
35 who functions pursuant to a standardized procedure or protocol
36 described in Section 3640.5, or the pharmacist who functions
37 pursuant to a policy, procedure, or protocol pursuant to either
38 Section 4052.1 or 4052.2.

39 (5) The date of issue.

1 (6) The name and address of the pharmacy, and prescription
2 number or other means of identifying the prescription.

3 (7) The strength of the drug or drugs dispensed.

4 (8) The quantity of the drug or drugs dispensed.

5 (9) The expiration date of the effectiveness of the drug
6 dispensed.

7 (10) The condition for which the drug was prescribed if
8 requested by the patient and the condition is indicated on the
9 prescription.

10 (11) (A) Commencing January 1, 2006, the physical description
11 of the dispensed medication, including its color, shape, and any
12 identification code that appears on the tablets or capsules, except
13 as follows:

14 (i) Prescriptions dispensed by a veterinarian.

15 (ii) An exemption from the requirements of this paragraph shall
16 be granted to a new drug for the first 120 days that the drug is on
17 the market and for the 90 days during which the national reference
18 file has no description on file.

19 (iii) Dispensed medications for which no physical description
20 exists in any commercially available database.

21 (B) This paragraph applies to outpatient pharmacies only.

22 (C) The information required by this paragraph may be printed
23 on an auxiliary label that is affixed to the prescription container.

24 (D) This paragraph shall not become operative if the board,
25 prior to January 1, 2006, adopts regulations that mandate the same
26 labeling requirements set forth in this paragraph.

27 (b) If a pharmacist dispenses a prescribed drug by means of a
28 unit dose medication system, as defined by administrative
29 regulation, for a patient in a skilled nursing, intermediate care, or
30 other health care facility, the requirements of this section will be
31 satisfied if the unit dose medication system contains the
32 aforementioned information or the information is otherwise readily
33 available at the time of drug administration.

34 (c) If a pharmacist dispenses a dangerous drug or device in a
35 facility licensed pursuant to Section 1250 of the Health and Safety
36 Code, it is not necessary to include on individual unit dose
37 containers for a specific patient, the name of the certified
38 nurse-midwife who functions pursuant to a standardized procedure
39 or protocol described in Section 2746.51, the nurse practitioner
40 who functions pursuant to a standardized procedure described in

1 Section 2836.1, or protocol, the physician assistant who functions
2 pursuant to Section 3502.1, the naturopathic doctor who functions
3 pursuant to a standardized procedure or protocol described in
4 Section 3640.5, or the pharmacist who functions pursuant to a
5 policy, procedure, or protocol pursuant to either Section 4052.1
6 or 4052.2.

7 (d) If a pharmacist dispenses a prescription drug for use in a
8 facility licensed pursuant to Section 1250 of the Health and Safety
9 Code, it is not necessary to include the information required in
10 paragraph (11) of subdivision (a) when the prescription drug is
11 administered to a patient by a person licensed under the Medical
12 Practice Act (Chapter 5 (commencing with Section 2000)), the
13 Nursing Practice Act (Chapter 6 (commencing with Section 2700)),
14 or the Vocational Nursing Practice Act (Chapter 6.5 (commencing
15 with Section 2840)), who is acting within his or her scope of
16 practice.

17 SEC. 55. Section 4081 of the Business and Professions Code
18 is amended to read:

19 4081. (a) All records of manufacture and of sale, acquisition,
20 or disposition of dangerous drugs or dangerous devices shall be
21 at all times during business hours open to inspection by authorized
22 officers of the law, and shall be preserved for at least three years
23 from the date of making. A current inventory shall be kept by every
24 manufacturer, wholesaler, pharmacy, veterinary food-animal drug
25 retailer, physician, dentist, podiatrist, veterinarian, laboratory,
26 clinic, hospital, institution, or establishment holding a currently
27 valid and unrevoked certificate, license, permit, registration, or
28 exemption under Division 2 (commencing with Section 1200) of
29 the Health and Safety Code or under Part 4 (commencing with
30 Section 16000) of Division 9 of the Welfare and Institutions Code
31 who maintains a stock of dangerous drugs or dangerous devices.

32 (b) The owner, officer, and partner of a pharmacy, wholesaler,
33 or veterinary food-animal drug retailer shall be jointly responsible,
34 with the pharmacist-in-charge or designated
35 representative-in-charge, for maintaining the records and inventory
36 described in this section.

37 (c) The pharmacist-in-charge or designated
38 representative-in-charge shall not be criminally responsible for
39 acts of the owner, officer, partner, or employee that violate this
40 section and of which the pharmacist-in-charge or designated

1 representative-in-charge had no knowledge, or in which he or she
2 did not knowingly participate.

3 (d) This section shall become operative on January 1, 2006.

4 SEC. 56. Section 4110 of the Business and Professions Code
5 is amended to read:

6 4110. (a) No person shall conduct a pharmacy in the State of
7 California unless he or she has obtained a license from the board.
8 A license shall be required for each pharmacy owned or operated
9 by a specific person. A separate license shall be required for each
10 of the premises of any person operating a pharmacy in more than
11 one location. The license shall be renewed annually. The board
12 may, by regulation, determine the circumstances under which a
13 license may be transferred.

14 (b) The board may, at its discretion, issue a temporary permit,
15 when the ownership of a pharmacy is transferred from one person
16 to another, upon the conditions and for any periods of time as the
17 board determines to be in the public interest. A temporary permit
18 fee shall be established by the board at an amount not to exceed
19 the annual fee for renewal of a permit to conduct a pharmacy.
20 When needed to protect public safety, a temporary permit may be
21 issued for a period not to exceed 180 days, and may be issued
22 subject to terms and conditions the board deems necessary. If the
23 board determines a temporary permit was issued by mistake or
24 denies the application for a permanent license or registration, the
25 temporary license or registration shall terminate upon either
26 personal service of the notice of termination upon the permitholder
27 or service by certified mail, return receipt requested, at the
28 permitholder's address of record with the board, whichever comes
29 first. Neither for purposes of retaining a temporary permit nor for
30 purposes of any disciplinary or license denial proceeding before
31 the board shall the temporary permitholder be deemed to have a
32 vested property right or interest in the permit.

33 (c) The board may allow the temporary use of a mobile
34 pharmacy when a pharmacy is destroyed or damaged, the mobile
35 pharmacy is necessary to protect the health and safety of the public,
36 and the following conditions are met:

37 (1) The mobile pharmacy shall provide services only on or
38 immediately contiguous to the site of the damaged or destroyed
39 pharmacy.

1 (2) The mobile pharmacy is under the control and management
2 of the pharmacist-in-charge of the pharmacy that was destroyed
3 or damaged.

4 (3) A licensed pharmacist is on the premises while drugs are
5 being dispensed.

6 (4) Reasonable security measures are taken to safeguard the
7 drug supply maintained in the mobile pharmacy.

8 (5) The pharmacy operating the mobile pharmacy provides the
9 board with records of the destruction or damage of the pharmacy
10 and an expected restoration date.

11 (6) Within three calendar days of restoration of the pharmacy
12 services, the board is provided with notice of the restoration of the
13 permanent pharmacy.

14 (7) The mobile pharmacy is not operated for more than 48 hours
15 following the restoration of the permanent pharmacy.

16 SEC. 57. Section 4111 of the Business and Professions Code
17 is amended to read:

18 4111. (a) Except as otherwise provided in subdivision (b), (d),
19 or (e), the board shall not issue or renew a license to conduct a
20 pharmacy to any of the following:

21 (1) A person or persons authorized to prescribe or write a
22 prescription, as specified in Section 4040, in the State of California.

23 (2) A person or persons with whom a person or persons specified
24 in paragraph (1) shares a community or other financial interest in
25 the permit sought.

26 (3) Any corporation that is controlled by, or in which 10 percent
27 or more of the stock is owned by a person or persons prohibited
28 from pharmacy ownership by paragraph (1) or (2).

29 (b) Subdivision (a) shall not preclude the issuance of a permit
30 for an inpatient hospital pharmacy to the owner of the hospital in
31 which it is located.

32 (c) The board may require any information the board deems is
33 reasonably necessary for the enforcement of this section.

34 (d) Subdivision (a) shall not preclude the issuance of a new or
35 renewal license for a pharmacy to be owned or owned and operated
36 by a person licensed on or before August 1, 1981, under the
37 Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2
38 (commencing with Section 1340) of Division 2 of the Health and
39 Safety Code) and qualified on or before August 1, 1981, under
40 subsection (d) of Section 1310 of Title XIII of the federal Public

1 Health Service Act, as amended, whose ownership includes persons
2 defined pursuant to paragraphs (1) and (2) of subdivision (a).

3 (e) Subdivision (a) shall not preclude the issuance of a new or
4 renewal license for a pharmacy to be owned or owned and operated
5 by a pharmacist authorized to issue a drug order pursuant to Section
6 4052.1 or 4052.2.

7 SEC. 58. Section 4126.5 of the Business and Professions Code
8 is amended to read:

9 4126.5. (a) A pharmacy may furnish dangerous drugs only to
10 the following:

11 (1) A wholesaler owned or under common control by the
12 wholesaler from whom the dangerous drug was acquired.

13 (2) The pharmaceutical manufacturer from whom the dangerous
14 drug was acquired.

15 (3) A licensed wholesaler acting as a reverse distributor.

16 (4) Another pharmacy or wholesaler to alleviate a temporary
17 shortage of a dangerous drug that could result in the denial of
18 health care. A pharmacy furnishing dangerous drugs pursuant to
19 this paragraph may only furnish a quantity sufficient to alleviate
20 the temporary shortage.

21 (5) A patient or to another pharmacy pursuant to a prescription
22 or as otherwise authorized by law.

23 (6) A health care provider that is not a pharmacy but that is
24 authorized to purchase dangerous drugs.

25 (7) To another pharmacy under common control.

26 (b) Notwithstanding any other provision of law, a violation of
27 this section may subject the person or persons who committed the
28 violation to a fine not to exceed the amount specified in Section
29 125.9 for each occurrence pursuant to a citation issued by the
30 board.

31 (c) Amounts due from any person under this section on or after
32 January 1, 2005, shall be offset as provided under Section 12419.5
33 of the Government Code. Amounts received by the board under
34 this section shall be deposited into the Pharmacy Board Contingent
35 Fund.

36 (d) For purposes of this section, “common control” means the
37 power to direct or cause the direction of the management and
38 policies of another person whether by ownership, by voting rights,
39 by contract, or by other means.

1 SEC. 59. Section 4161 of the Business and Professions Code
2 is amended to read:

3 4161. (a) A person located outside this state that (1) ships,
4 sells, mails, or delivers dangerous drugs or dangerous devices into
5 this state or (2) sells, brokers, or distributes dangerous drugs or
6 devices within this state shall be considered a nonresident
7 wholesaler.

8 (b) A nonresident wholesaler shall be licensed by the board
9 prior to shipping, selling, mailing, or delivering dangerous drugs
10 or dangerous devices to a site located in this state or selling,
11 brokering, or distributing dangerous drugs or devices within this
12 state.

13 (c) A separate license shall be required for each place of business
14 owned or operated by a nonresident wholesaler from or through
15 which dangerous drugs or dangerous devices are shipped, sold,
16 mailed, or delivered to a site located in this state or sold, brokered,
17 or distributed within this state. A license shall be renewed annually
18 and shall not be transferable.

19 (d) The following information shall be reported, in writing, to
20 the board at the time of initial application for licensure by a
21 nonresident wholesaler, on renewal of a nonresident wholesaler
22 license, or within 30 days of a change in that information:

23 (1) Its agent for service of process in this state.
24 (2) Its principal corporate officers, as specified by the board, if
25 any.
26 (3) Its general partners, as specified by the board, if any.

27 (4) Its owners if the applicant is not a corporation or partnership.

28 (e) A report containing the information in subdivision (d) shall
29 be made within 30 days of any change of ownership, office,
30 corporate officer, or partner.

31 (f) A nonresident wholesaler shall comply with all directions
32 and requests for information from the regulatory or licensing
33 agency of the state in which it is licensed, as well as with all
34 requests for information made by the board.

35 (g) A nonresident wholesaler shall maintain records of dangerous
36 drugs and dangerous devices sold, traded, or transferred to persons
37 in this state or within this state, so that the records are in a readily
38 retrievable form.

39 (h) A nonresident wholesaler shall at all times maintain a valid,
40 unexpired license, permit, or registration to conduct the business

1 of the wholesaler in compliance with the laws of the state in which
2 it is a resident. An application for a nonresident wholesaler license
3 in this state shall include a license verification from the licensing
4 authority in the applicant's state of residence.

5 (i) The board may not issue or renew a nonresident wholesaler
6 license until the nonresident wholesaler identifies a designated
7 representative-in-charge and notifies the board in writing of the
8 identity and license number of the designated
9 representative-in-charge.

10 (j) The designated representative-in-charge shall be responsible
11 for the nonresident wholesaler's compliance with state and federal
12 laws governing wholesalers. A nonresident wholesaler shall
13 identify and notify the board of a new designated
14 representative-in-charge within 30 days of the date that the prior
15 designated representative-in-charge ceases to be the designated
16 representative-in-charge.

17 (k) The board may issue a temporary license, upon conditions
18 and for periods of time as the board determines to be in the public
19 interest. A temporary license fee shall be five hundred fifty dollars
20 (\$550) or another amount established by the board not to exceed
21 the annual fee for renewal of a license to compound injectable
22 sterile drug products. When needed to protect public safety, a
23 temporary license may be issued for a period not to exceed 180
24 days, subject to terms and conditions that the board deems
25 necessary. If the board determines that a temporary license was
26 issued by mistake or denies the application for a permanent license,
27 the temporary license shall terminate upon either personal service
28 of the notice of termination upon the licenseholder or service by
29 certified mail, return receipt requested, at the licenseholder's
30 address of record with the board, whichever occurs first. Neither
31 for purposes of retaining a temporary license, nor for purposes of
32 any disciplinary or license denial proceeding before the board,
33 shall the temporary licenseholder be deemed to have a vested
34 property right or interest in the license.

35 (l) The registration fee shall be the fee specified in subdivision
36 (f) of Section 4400.

37 SEC. 60. Section 4174 of the Business and Professions Code
38 is amended to read:

39 4174. Notwithstanding any other provision of law, a pharmacist
40 may dispense drugs or devices upon the drug order of a nurse

1 practitioner functioning pursuant to Section 2836.1 or a certified
2 nurse-midwife functioning pursuant to Section 2746.51, a drug
3 order of a physician assistant functioning pursuant to Section
4 3502.1 or a naturopathic doctor functioning pursuant to Section
5 3640.5, or the order of a pharmacist acting under Section 4052.1,
6 4052.2, or 4052.3.

7 SEC. 61. Section 4231 of the Business and Professions Code
8 is amended to read:

9 4231. (a) The board shall not renew a pharmacist license unless
10 the applicant submits proof satisfactory to the board that he or she
11 has successfully completed 30 hours of approved courses of
12 continuing pharmacy education during the two years preceding
13 the application for renewal.

14 (b) Notwithstanding subdivision (a), the board shall not require
15 completion of continuing education for the first renewal of a
16 pharmacist license.

17 (c) If an applicant for renewal of a pharmacist license submits
18 the renewal application and payment of the renewal fee but does
19 not submit proof satisfactory to the board that the licensee has
20 completed 30 hours of continuing pharmacy education, the board
21 shall not renew the license and shall issue the applicant an inactive
22 pharmacist license. A licensee with an inactive pharmacist license
23 issued pursuant to this section may obtain an active pharmacist
24 license by paying the renewal fees due and submitting satisfactory
25 proof to the board that the licensee has completed 30 hours of
26 continuing pharmacy education.

27 (d) If, as part of an investigation or audit conducted by the board,
28 a pharmacist fails to provide documentation substantiating the
29 completion of continuing education as required in subdivision (a),
30 the board shall cancel the active pharmacist license and issue an
31 inactive pharmacist license in its place. A licensee with an inactive
32 pharmacist license issued pursuant to this section may obtain an
33 active pharmacist license by paying the renewal fees due and
34 submitting satisfactory proof to the board that the licensee has
35 completed 30 hours of continuing pharmacy education.

36 SEC. 62. Section 4301 of the Business and Professions Code
37 is amended to read:

38 4301. The board shall take action against any holder of a license
39 who is guilty of unprofessional conduct or whose license has been
40 procured by fraud or misrepresentation or issued by mistake.

1 Unprofessional conduct shall include, but is not limited to, any of
2 the following:

3 (a) Gross immorality.

4 (b) Incompetence.

5 (c) Gross negligence.

6 (d) The clearly excessive furnishing of controlled substances
7 in violation of subdivision (a) of Section 11153 of the Health and
8 Safety Code.

9 (e) The clearly excessive furnishing of controlled substances in
10 violation of subdivision (a) of Section 11153.5 of the Health and
11 Safety Code. Factors to be considered in determining whether the
12 furnishing of controlled substances is clearly excessive shall
13 include, but not be limited to, the amount of controlled substances
14 furnished, the previous ordering pattern of the customer (including
15 size and frequency of orders), the type and size of the customer,
16 and where and to whom the customer distributes its product.

17 (f) The commission of any act involving moral turpitude,
18 dishonesty, fraud, deceit, or corruption, whether the act is
19 committed in the course of relations as a licensee or otherwise,
20 and whether the act is a felony or misdemeanor or not.

21 (g) Knowingly making or signing any certificate or other
22 document that falsely represents the existence or nonexistence of
23 a state of facts.

24 (h) The administering to oneself, of any controlled substance,
25 or the use of any dangerous drug or of alcoholic beverages to the
26 extent or in a manner as to be dangerous or injurious to oneself,
27 to a person holding a license under this chapter, or to any other
28 person or to the public, or to the extent that the use impairs the
29 ability of the person to conduct with safety to the public the practice
30 authorized by the license.

31 (i) Except as otherwise authorized by law, knowingly selling,
32 furnishing, giving away, or administering, or offering to sell,
33 furnish, give away, or administer, any controlled substance to an
34 addict.

35 (j) The violation of any of the statutes of this state, of any other
36 state, or of the United States regulating controlled substances and
37 dangerous drugs.

38 (k) The conviction of more than one misdemeanor or any felony
39 involving the use, consumption, or self-administration of any

1 dangerous drug or alcoholic beverage, or any combination of those
2 substances.

3 (l) The conviction of a crime substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter.
5 The record of conviction of a violation of Chapter 13 (commencing
6 with Section 801) of Title 21 of the United States Code regulating
7 controlled substances or of a violation of the statutes of this state
8 regulating controlled substances or dangerous drugs shall be
9 conclusive evidence of unprofessional conduct. In all other cases,
10 the record of conviction shall be conclusive evidence only of the
11 fact that the conviction occurred. The board may inquire into the
12 circumstances surrounding the commission of the crime, in order
13 to fix the degree of discipline or, in the case of a conviction not
14 involving controlled substances or dangerous drugs, to determine
15 if the conviction is of an offense substantially related to the
16 qualifications, functions, and duties of a licensee under this chapter.
17 A plea or verdict of guilty or a conviction following a plea of nolo
18 contendere is deemed to be a conviction within the meaning of
19 this provision. The board may take action when the time for appeal
20 has elapsed, or the judgment of conviction has been affirmed on
21 appeal or when an order granting probation is made suspending
22 the imposition of sentence, irrespective of a subsequent order under
23 Section 1203.4 of the Penal Code allowing the person to withdraw
24 his or her plea of guilty and to enter a plea of not guilty, or setting
25 aside the verdict of guilty, or dismissing the accusation,
26 information, or indictment.

27 (m) The cash compromise of a charge of violation of Chapter
28 13 (commencing with Section 801) of Title 21 of the United States
29 Code regulating controlled substances or of Chapter 7
30 (commencing with Section 14000) of Part 3 of Division 9 of the
31 Welfare and Institutions Code relating to the Medi-Cal program.
32 The record of the compromise is conclusive evidence of
33 unprofessional conduct.

34 (n) The revocation, suspension, or other discipline by another
35 state of a license to practice pharmacy, operate a pharmacy, or do
36 any other act for which a license is required by this chapter.

37 (o) Violating or attempting to violate, directly or indirectly, or
38 assisting in or abetting the violation of or conspiring to violate any
39 provision or term of this chapter or of the applicable federal and
40 state laws and regulations governing pharmacy, including

1 regulations established by the board or by any other state or federal
2 regulatory agency.

3 (p) Actions or conduct that would have warranted denial of a
4 license.

5 (q) Engaging in any conduct that subverts or attempts to subvert
6 an investigation of the board.

7 (r) The selling, trading, transferring, or furnishing of drugs
8 obtained pursuant to Section 256b of Title 42 of the United States
9 Code to any person a licensee knows or reasonably should have
10 known, not to be a patient of a covered entity, as defined in
11 paragraph (4) of subsection (a) of Section 256b of Title 42 of the
12 United States Code.

13 (s) The clearly excessive furnishing of dangerous drugs by a
14 wholesaler to a pharmacy that primarily or solely dispenses
15 prescription drugs to patients of long-term care facilities. Factors
16 to be considered in determining whether the furnishing of
17 dangerous drugs is clearly excessive shall include, but not be
18 limited to, the amount of dangerous drugs furnished to a pharmacy
19 that primarily or solely dispenses prescription drugs to patients of
20 long-term care facilities, the previous ordering pattern of the
21 pharmacy, and the general patient population to whom the
22 pharmacy distributes the dangerous drugs. That a wholesaler has
23 established, and employs, a tracking system that complies with
24 the requirements of subdivision (b) of Section 4164 shall be
25 considered in determining whether there has been a violation of
26 this subdivision. This provision shall not be interpreted to require
27 a wholesaler to obtain personal medical information or be
28 authorized to permit a wholesaler to have access to personal
29 medical information except as otherwise authorized by Section 56
30 and following of the Civil Code. For purposes of this section,
31 “long-term care facility” shall have the same meaning given the
32 term in Section 1418 of the Health and Safety Code.

33 (t) This section shall become operative on January 1, 2006.

34 SEC. 63. Section 4305 of the Business and Professions Code
35 is amended to read:

36 4305. (a) Failure by any pharmacist to notify the board in
37 writing that he or she has ceased to act as pharmacist-in-charge of
38 a pharmacy, or by any pharmacy to notify the board in writing that
39 a pharmacist-in-charge is no longer acting in that capacity, within

1 the 30-day period specified in Sections 4101 and 4113 shall
2 constitute grounds for disciplinary action.

3 (b) Operation of a pharmacy for more than 30 days without
4 supervision or management by a pharmacist-in-charge shall
5 constitute grounds for disciplinary action.

6 (c) Any person who has obtained a license to conduct a
7 pharmacy, who willfully fails to timely notify the board that the
8 pharmacist-in-charge of the pharmacy has ceased to act in that
9 capacity, and who continues to permit the compounding or
10 dispensing of prescriptions, or the furnishing of drugs or poisons,
11 in his or her pharmacy, except by a pharmacist subject to the
12 supervision and management of a responsible pharmacist-in-charge,
13 shall be subject to summary suspension or revocation of his or her
14 license to conduct a pharmacy.

15 SEC. 64. Section 4329 of the Business and Professions Code
16 is amended to read:

17 4329. Any nonpharmacist who takes charge of or acts as
18 supervisor, manager, or pharmacist-in-charge of any pharmacy,
19 or who compounds or dispenses a prescription or furnishes
20 dangerous drugs except as otherwise provided in this chapter, is
21 guilty of a misdemeanor.

22 SEC. 65. Section 4330 of the Business and Professions Code
23 is amended to read:

24 4330. (a) Any person who has obtained a license to conduct
25 a pharmacy, who fails to place in charge of the pharmacy a
26 pharmacist, or any person, who by himself or herself, or by any
27 other person, permits the compounding or dispensing of
28 prescriptions, or the furnishing of dangerous drugs, in his or her
29 pharmacy, except by a pharmacist, or as otherwise provided in this
30 chapter, is guilty of a misdemeanor.

31 (b) Any pharmacy owner who commits any act that would
32 subvert or tend to subvert the efforts of the pharmacist-in-charge
33 to comply with the laws governing the operation of the pharmacy
34 is guilty of a misdemeanor.

35 SEC. 65.5. *Section 4857 of the Business and Professions Code*
36 *is amended to read:*

37 4857. (a) A veterinarian licensed under the provisions of this
38 chapter shall not disclose any information concerning an animal
39 receiving veterinary services, the client responsible for the animal

1 receiving veterinary services, or the veterinary care provided to
2 an animal, except under any one of the following circumstances:

3 (1) Upon written or witnessed oral authorization by knowing
4 and informed consent of the client responsible for the animal
5 receiving services or an authorized agent of the client.

6 (2) Upon authorization received by electronic transmission when
7 originated by the client responsible for the animal receiving
8 services or an authorized agent of the client.

9 (3) In response to a valid court order or subpoena.

10 (4) As may be required to ensure compliance with any federal,
11 state, county, or city ~~laws law or regulations~~ *regulation, including,*
12 *but not limited to, the California Public Records Act (Chapter 3.5*
13 *(commencing with Section 6250) of Division 7 of Title 1 of the*
14 *Government Code).*

15 (5) Nothing in this section is intended to prevent the sharing of
16 veterinary medical information between veterinarians or facilities
17 for the purpose of diagnosis or treatment of the animal who is the
18 subject of the medical records.

19 (6) As otherwise provided in this section.

20 (b) This section shall not apply to the extent that the client
21 responsible for an animal or an authorized agent of the client
22 responsible for the animal has filed or caused to be filed a civil or
23 criminal complaint that places the veterinarian's care and treatment
24 of the animal or the nature and extent of the injuries to the animal
25 ~~at issue,~~ *issue,* or when the veterinarian is acting to comply with
26 ~~federal,~~ *federal,* state, county, or city laws or regulations.

27 (c) A veterinarian shall be subject to the criminal penalties set
28 forth in Section 4831 or any other provision of this code for a
29 violation of this section. In addition, any veterinarian who
30 negligently releases confidential information shall be liable in a
31 civil action for any damages caused by the release of that
32 information.

33 (d) Nothing in this section is intended to prevent the sharing of
34 veterinary medical information between veterinarians and peace
35 officers, humane society officers, or animal control officers who
36 are acting to protect the welfare of animals.

37 SEC. 66. Section 4980.03 of the Business and Professions
38 Code is amended to read:

39 4980.03. (a) "Board," as used in this chapter, means the Board
40 of Behavioral Sciences.

1 (b) “Intern,” as used in this chapter, means an unlicensed person
2 who has earned his or her master’s or doctor’s degree qualifying
3 him or her for licensure and is registered with the board.

4 (c) “Trainee,” as used in this chapter, means an unlicensed
5 person who is currently enrolled in a master’s or doctor’s degree
6 program, as specified in Section 4980.40, that is designed to qualify
7 him or her for licensure under this chapter, and who has completed
8 no less than 12 semester units or 18 quarter units of coursework
9 in any qualifying degree program.

10 (d) “Applicant,” as used in this chapter, means an unlicensed
11 person who has completed a master’s or doctoral degree program,
12 as specified in Section 4980.40, and whose application for
13 registration as an intern is pending, or an unlicensed person who
14 has completed the requirements for licensure as specified in this
15 chapter, is no longer registered with the board as an intern, and is
16 currently in the examination process.

17 (e) “Advertise,” as used in this chapter, includes, but is not
18 limited to, the issuance of any card, sign, or device to any person,
19 or the causing, permitting, or allowing of any sign or marking on,
20 or in, any building or structure, or in any newspaper or magazine
21 or in any directory, or any printed matter whatsoever, with or
22 without any limiting qualification. It also includes business
23 solicitations communicated by radio or television broadcasting.
24 Signs within church buildings or notices in church bulletins mailed
25 to a congregation shall not be construed as advertising within the
26 meaning of this chapter.

27 (f) “Experience,” as used in this chapter, means experience in
28 interpersonal relationships, psychotherapy, marriage and family
29 therapy, and professional enrichment activities that satisfies the
30 requirement for licensure as a marriage and family therapist
31 pursuant to Section 4980.40.

32 (g) “Supervisor,” as used in this chapter, means an individual
33 who meets all of the following requirements:

34 (1) Has been licensed by a state regulatory agency for at least
35 two years as a marriage and family therapist, licensed clinical
36 social worker, licensed psychologist, or licensed physician certified
37 in psychiatry by the American Board of Psychiatry and Neurology.

38 (2) Has not provided therapeutic services to the trainee or intern.

39 (3) Has a current and valid license that is not under suspension
40 or probation.

(4) Complies with supervision requirements established by this chapter and by board regulations.

(h) “Client-centered advocacy,” as used in this chapter, includes, but is not limited to, researching, identifying, and accessing resources, or other activities, related to obtaining or providing services and supports for clients or groups of clients receiving psychotherapy or counseling services.

SEC. 67. Section 4980.04 is added to the Business and Professions Code, to read:

4980.04. This chapter shall be known and may be cited as the Marriage and Family Therapist Act.

SEC. 68. Section 4980.30 of the Business and Professions Code is amended to read:

4980.30. Except as otherwise provided herein, a person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the board for a license, shall pay the license fee required by this chapter, and obtain a license from the board.

SEC. 69. Section 4980.43 of the Business and Professions Code is amended to read:

4980.43. (a) Prior to applying for licensure examinations, each applicant shall complete experience that shall comply with the following:

(1) A minimum of 3,000 hours completed during a period of at least 104 weeks.

(2) Not more than 40 hours in any seven consecutive days.

(3) Not less than 1,700 hours of supervised experience completed subsequent to the granting of the qualifying master’s or doctor’s degree.

(4) Not more than 1,300 hours of experience obtained prior to completing a master’s or doctor’s degree. This experience shall be composed as follows:

(A) Not more than 750 hours of counseling and direct supervisor contact.

(B) Not more than 250 hours of professional enrichment activities, excluding personal psychotherapy as described in paragraph (2) of subdivision (I).

(C) Not more than 100 hours of personal psychotherapy as described in paragraph (2) of subdivision (I). The applicant shall

1 be credited for three hours of experience for each hour of personal
2 psychotherapy.

3 (5) No hours of experience may be gained prior to completing
4 either 12 semester units or 18 quarter units of graduate instruction
5 and becoming a trainee except for personal psychotherapy.

6 (6) No hours of experience gained more than six years prior to
7 the date the application for examination eligibility was filed, except
8 that up to 500 hours of clinical experience gained in the supervised
9 practicum required by subdivision (b) of Section 4980.40 shall be
10 exempt from this six-year requirement.

11 (7) Not more than a total of 1,000 hours of experience for direct
12 supervisor contact and professional enrichment activities.

13 (8) Not more than 500 hours of experience providing group
14 therapy or group counseling.

15 (9) Not more than 250 hours of postdegree experience
16 administering and evaluating psychological tests of counselees,
17 writing clinical reports, writing progress notes, or writing process
18 notes.

19 (10) Not more than 250 hours of experience providing
20 counseling or crisis counseling on the telephone.

21 (11) Not less than 500 total hours of experience in diagnosing
22 and treating couples, families, and children.

23 (12) Not more than 125 hours of experience providing personal
24 psychotherapy services via telemedicine in accordance with Section
25 2290.5.

26 (b) All applicants, trainees, and registrants shall be at all times
27 under the supervision of a supervisor who shall be responsible for
28 ensuring that the extent, kind, and quality of counseling performed
29 is consistent with the training and experience of the person being
30 supervised, and who shall be responsible to the board for
31 compliance with all laws, rules, and regulations governing the
32 practice of marriage and family therapy. Supervised experience
33 shall be gained by interns and trainees either as an employee or as
34 a volunteer. The requirements of this chapter regarding gaining
35 hours of experience and supervision are applicable equally to
36 employees and volunteers. Experience shall not be gained by
37 interns or trainees as an independent contractor.

38 (c) Supervision shall include at least one hour of direct
39 supervisor contact in each week for which experience is credited
40 in each work setting, as specified:

1 (1) A trainee shall receive an average of at least one hour of
2 direct supervisor contact for every five hours of client contact in
3 each setting.

4 (2) Each individual supervised after being granted a qualifying
5 degree shall receive an average of at least one hour of direct
6 supervisor contact for every 10 hours of client contact in each
7 setting in which experience is gained.

8 (3) For purposes of this section, “one hour of direct supervisor
9 contact” means one hour of face-to-face contact on an individual
10 basis or two hours of face-to-face contact in a group of not more
11 than eight persons.

12 (4) All experience gained by a trainee shall be monitored by the
13 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios
14 specified in this subdivision shall be applicable to all hours gained
15 on or after January 1, 1995.

16 (d) (1) A trainee may be credited with supervised experience
17 completed in any setting that meets all of the following:

18 (A) Lawfully and regularly provides mental health counseling
19 or psychotherapy.

20 (B) Provides oversight to ensure that the trainee’s work at the
21 setting meets the experience and supervision requirements set forth
22 in this chapter and is within the scope of practice for the profession
23 as defined in Section 4980.02.

24 (C) Is not a private practice owned by a licensed marriage and
25 family therapist, a licensed psychologist, a licensed clinical social
26 worker, a licensed physician and surgeon, or a professional
27 corporation of any of those licensed professions.

28 (2) Experience may be gained by the trainee solely as part of
29 the position for which the trainee volunteers or is employed.

30 (e) (1) An intern may be credited with supervised experience
31 completed in any setting that meets both of the following:

32 (A) Lawfully and regularly provides mental health counseling
33 or psychotherapy.

34 (B) Provides oversight to ensure that the intern’s work at the
35 setting meets the experience and supervision requirements set forth
36 in this chapter and is within the scope of practice for the profession
37 as defined in Section 4980.02.

38 (2) An applicant shall not be employed or volunteer in a private
39 practice, as defined in subparagraph (C) of paragraph (1) of
40 subdivision (d), until registered as an intern.

1 (3) While an intern may be either a paid employee or a
2 volunteer, employers are encouraged to provide fair remuneration
3 to interns.

4 (4) Except for periods of time during a supervisor's vacation or
5 sick leave, an intern who is employed or volunteering in private
6 practice shall be under the direct supervision of a licensee that has
7 satisfied the requirements of subdivision (g) of Section 4980.03.
8 The supervising licensee shall either be employed by and practice
9 at the same site as the intern's employer, or shall be an owner or
10 shareholder of the private practice. Alternative supervision may
11 be arranged during a supervisor's vacation or sick leave if the
12 supervision meets the requirements of this section.

13 (5) Experience may be gained by the intern solely as part of the
14 position for which the intern volunteers or is employed.

15 (f) Except as provided in subdivision (g), all persons shall
16 register with the board as an intern in order to be credited for
17 postdegree hours of supervised experience gained toward licensure.

18 (g) Except when employed in a private practice setting, all
19 postdegree hours of experience shall be credited toward licensure
20 so long as the applicant applies for the intern registration within
21 90 days of the granting of the qualifying master's or doctor's
22 degree and is thereafter granted the intern registration by the board.

23 (h) Trainees, interns, and applicants shall not receive any
24 remuneration from patients or clients, and shall only be paid by
25 their employers.

26 (i) Trainees, interns, and applicants shall only perform services
27 at the place where their employers regularly conduct business,
28 which may include performing services at other locations, so long
29 as the services are performed under the direction and control of
30 their employer and supervisor, and in compliance with the laws
31 and regulations pertaining to supervision. Trainees and interns
32 shall have no proprietary interest in their employers' businesses
33 and shall not lease or rent space, pay for furnishings, equipment
34 or supplies, or in any other way pay for the obligations of their
35 employers.

36 (j) Trainees, interns, or applicants who provide volunteered
37 services or other services, and who receive no more than a total,
38 from all work settings, of five hundred dollars (\$500) per month
39 as reimbursement for expenses actually incurred by those trainees,
40 interns, or applicants for services rendered in any lawful work

1 setting other than a private practice shall be considered an
2 employee and not an independent contractor. The board may audit
3 applicants who receive reimbursement for expenses, and the
4 applicants shall have the burden of demonstrating that the payments
5 received were for reimbursement of expenses actually incurred.

6 (k) Each educational institution preparing applicants for
7 licensure pursuant to this chapter shall consider requiring, and
8 shall encourage, its students to undergo individual, marital or
9 conjoint, family, or group counseling or psychotherapy, as
10 appropriate. Each supervisor shall consider, advise, and encourage
11 his or her interns and trainees regarding the advisability of
12 undertaking individual, marital or conjoint, family, or group
13 counseling or psychotherapy, as appropriate. Insofar as it is deemed
14 appropriate and is desired by the applicant, the educational
15 institution and supervisors are encouraged to assist the applicant
16 in locating that counseling or psychotherapy at a reasonable cost.

17 (l) For purposes of this chapter, “professional enrichment
18 activities” includes the following:

19 (1) Workshops, seminars, training sessions, or conferences
20 directly related to marriage and family therapy attended by the
21 applicant that are approved by the applicant’s supervisor.

22 (2) Participation by the applicant in personal psychotherapy
23 which includes group, marital or conjoint, family, or individual
24 psychotherapy by an appropriately licensed professional.

25 SEC. 69.5. Section 4980.43 of the Business and Professions
26 Code is amended to read:

27 4980.43. (a) Prior to applying for licensure examinations, each
28 applicant shall complete experience that shall comply with the
29 following:

30 (1) A minimum of 3,000 hours completed during a period of at
31 least 104 weeks.

32 (2) Not more than 40 hours in any seven consecutive days.

33 (3) Not less than 1,700 hours of supervised experience
34 completed subsequent to the granting of the qualifying master’s
35 or doctor’s degree.

36 (4) Not more than 1,300 hours of experience obtained prior to
37 completing a master’s or doctor’s degree. This experience shall
38 be composed as follows:

39 (A) Not more than 750 hours of counseling and direct supervisor
40 contact.

1 (B) Not more than 250 hours of professional enrichment
2 activities, excluding personal psychotherapy as described in
3 paragraph (2) of subdivision (I).

4 (C) Not more than 100 hours of personal psychotherapy as
5 described in paragraph (2) of subdivision (I). The applicant shall
6 be credited for three hours of experience for each hour of personal
7 psychotherapy.

8 (5) No hours of experience may be gained prior to completing
9 either 12 semester units or 18 quarter units of graduate instruction
10 and becoming a trainee except for personal psychotherapy.

11 (6) No hours of experience gained more than six years prior to
12 the date the application for examination eligibility was filed, except
13 that up to 500 hours of clinical experience gained in the supervised
14 practicum required by subdivision (c) of Section 4980.37 and
15 subparagraph (B) of paragraph (1) of subdivision (d) of Section
16 4980.36 shall be exempt from this six-year requirement.

17 (7) Not more than a total of 1,250 hours of experience for related
18 professional enrichment activities, as follows:

19 (A) Not more than 250 hours of professional enrichment
20 activities, as defined in subdivision (I).

21 (B) Not more than 250 hours of experience administering and
22 evaluating psychological tests, writing clinical reports, writing
23 progress notes, or writing process notes.

24 (C) Direct supervisor contact.

25 (D) Client centered advocacy.

26 (E) Personal psychology.

27 (8) Not more than 500 hours of experience providing group
28 therapy or group counseling.

29 (9) Not more than 250 hours of experience providing counseling
30 or crisis counseling on the telephone.

31 (10) Not less than 500 total hours of experience in diagnosing
32 and treating couples, families, and children.

33 (11) Not more than 125 hours of experience providing personal
34 psychotherapy services via telemedicine in accordance with Section
35 2290.5.

36 (b) All applicants, trainees, and registrants shall be at all times
37 under the supervision of a supervisor who shall be responsible for
38 ensuring that the extent, kind, and quality of counseling performed
39 is consistent with the training and experience of the person being
40 supervised, and who shall be responsible to the board for

1 compliance with all laws, rules, and regulations governing the
2 practice of marriage and family therapy. Supervised experience
3 shall be gained by interns and trainees either as an employee or as
4 a volunteer. The requirements of this chapter regarding gaining
5 hours of experience and supervision are applicable equally to
6 employees and volunteers. Experience shall not be gained by
7 interns or trainees as an independent contractor.

8 (1) If employed, an intern shall provide the board with copies
9 of the corresponding W-2 tax forms for each year of experience
10 claimed upon application for licensure.

11 (2) If volunteering, an intern shall provide the board with a letter
12 from his or her employer verifying the intern's employment as a
13 volunteer upon application for licensure.

14 (c) Supervision shall include at least one hour of direct
15 supervisor contact in each week for which experience is credited
16 in each work setting, as specified:

17 (1) A trainee shall receive an average of at least one hour of
18 direct supervisor contact for every five hours of client contact in
19 each setting.

20 (2) Each individual supervised after being granted a qualifying
21 degree shall receive an average of at least one hour of direct
22 supervisor contact for every 10 hours of client contact in each
23 setting in which experience is gained.

24 (3) For purposes of this section, "one hour of direct supervisor
25 contact" means one hour per week of face-to-face contact on an
26 individual basis or two hours per week of face-to-face contact in
27 a group.

28 (4) Direct supervisor contact shall occur within the same week
29 as the hours claimed.

30 (5) Direct supervisor contact provided in a group shall be
31 provided in a group of not more than eight supervisees and in
32 segments lasting no less than one continuous hour.

33 (6) An intern working in a governmental entity, a school, a
34 college, or a university, or an institution that is both nonprofit and
35 charitable may obtain up to 30 hours of the required weekly direct
36 supervisor contact via two-way, real-time videoconferencing. The
37 supervisor shall be responsible for ensuring that client
38 confidentiality is upheld.

39 (7) All experience gained by a trainee shall be monitored by the
40 supervisor as specified by regulation. The 5-to-1 and 10-to-1 ratios

1 specified in this subdivision shall be applicable to all hours gained
2 on or after January 1, 1995.

3 (d) (1) A trainee may be credited with supervised experience
4 completed in any setting that meets all of the following:

5 (A) Lawfully and regularly provides mental health counseling
6 or psychotherapy.

7 (B) Provides oversight to ensure that the trainee's work at the
8 setting meets the experience and supervision requirements set forth
9 in this chapter and is within the scope of practice for the profession
10 as defined in Section 4980.02.

11 (C) Is not a private practice owned by a licensed marriage and
12 family therapist, a licensed psychologist, a licensed clinical social
13 worker, a licensed physician and surgeon, or a professional
14 corporation of any of those licensed professions.

15 (2) Experience may be gained by the trainee solely as part of
16 the position for which the trainee volunteers or is employed.

17 (e) (1) An intern may be credited with supervised experience
18 completed in any setting that meets both of the following:

19 (A) Lawfully and regularly provides mental health counseling
20 or psychotherapy.

21 (B) Provides oversight to ensure that the intern's work at the
22 setting meets the experience and supervision requirements set forth
23 in this chapter and is within the scope of practice for the profession
24 as defined in Section 4980.02.

25 (2) An applicant shall not be employed or volunteer in a private
26 practice, as defined in subparagraph (C) of paragraph (1) of
27 subdivision (d), until registered as an intern.

28 (3) While an intern may be either a paid employee or a
29 volunteer, employers are encouraged to provide fair remuneration
30 to interns.

31 (4) Except for periods of time during a supervisor's vacation or
32 sick leave, an intern who is employed or volunteering in private
33 practice shall be under the direct supervision of a licensee that has
34 satisfied the requirements of subdivision (g) of Section 4980.03.
35 The supervising licensee shall either be employed by and practice
36 at the same site as the intern's employer, or shall be an owner or
37 shareholder of the private practice. Alternative supervision may
38 be arranged during a supervisor's vacation or sick leave if the
39 supervision meets the requirements of this section.

1 (5) Experience may be gained by the intern solely as part of the
2 position for which the intern volunteers or is employed.

3 (f) Except as provided in subdivision (g), all persons shall
4 register with the board as an intern in order to be credited for
5 postdegree hours of supervised experience gained toward licensure.

6 (g) Except when employed in a private practice setting, all
7 postdegree hours of experience shall be credited toward licensure
8 so long as the applicant applies for the intern registration within
9 90 days of the granting of the qualifying master's or doctor's
10 degree and is thereafter granted the intern registration by the board.

11 (h) Trainees, interns, and applicants shall not receive any
12 remuneration from patients or clients, and shall only be paid by
13 their employers.

14 (i) Trainees, interns, and applicants shall only perform services
15 at the place where their employers regularly conduct business,
16 which may include performing services at other locations, so long
17 as the services are performed under the direction and control of
18 their employer and supervisor, and in compliance with the laws
19 and regulations pertaining to supervision. Trainees and interns
20 shall have no proprietary interest in their employers' businesses
21 and shall not lease or rent space, pay for furnishings, equipment
22 or supplies, or in any other way pay for the obligations of their
23 employers.

24 (j) Trainees, interns, or applicants who provide volunteered
25 services or other services, and who receive no more than a total,
26 from all work settings, of five hundred dollars (\$500) per month
27 as reimbursement for expenses actually incurred by those trainees,
28 interns, or applicants for services rendered in any lawful work
29 setting other than a private practice shall be considered an
30 employee and not an independent contractor. The board may audit
31 applicants who receive reimbursement for expenses, and the
32 applicants shall have the burden of demonstrating that the payments
33 received were for reimbursement of expenses actually incurred.

34 (k) Each educational institution preparing applicants for
35 licensure pursuant to this chapter shall consider requiring, and
36 shall encourage, its students to undergo individual, marital or
37 conjoint, family, or group counseling or psychotherapy, as
38 appropriate. Each supervisor shall consider, advise, and encourage
39 his or her interns and trainees regarding the advisability of
40 undertaking individual, marital or conjoint, family, or group

1 counseling or psychotherapy, as appropriate. Insofar as it is deemed
2 appropriate and is desired by the applicant, the educational
3 institution and supervisors are encouraged to assist the applicant
4 in locating that counseling or psychotherapy at a reasonable cost.

5 (l) For purposes of this chapter, “professional enrichment
6 activities” includes the following:

7 (1) Workshops, seminars, training sessions, or conferences
8 directly related to marriage and family therapy attended by the
9 applicant that are approved by the applicant’s supervisor.

10 (2) Participation by the applicant in personal psychotherapy
11 which includes group, marital or conjoint, family, or individual
12 psychotherapy by an appropriately licensed professional.

13 SEC. 70. Section 4981 of the Business and Professions Code
14 is repealed.

15 SEC. 71. Section 4982 of the Business and Professions Code
16 is amended to read:

17 4982. The board may deny a license or registration or may
18 suspend or revoke the license or registration of a licensee or
19 registrant if he or she has been guilty of unprofessional conduct.
20 Unprofessional conduct includes, but is not limited to, the
21 following:

22 (a) The conviction of a crime substantially related to the
23 qualifications, functions, or duties of a licensee or registrant under
24 this chapter. The record of conviction shall be conclusive evidence
25 only of the fact that the conviction occurred. The board may inquire
26 into the circumstances surrounding the commission of the crime
27 in order to fix the degree of discipline or to determine if the
28 conviction is substantially related to the qualifications, functions,
29 or duties of a licensee or registrant under this chapter. A plea or
30 verdict of guilty or a conviction following a plea of nolo contendere
31 made to a charge substantially related to the qualifications,
32 functions, or duties of a licensee or registrant under this chapter
33 shall be deemed to be a conviction within the meaning of this
34 section. The board may order any license or registration suspended
35 or revoked, or may decline to issue a license or registration when
36 the time for appeal has elapsed, or the judgment of conviction has
37 been affirmed on appeal, or, when an order granting probation is
38 made suspending the imposition of sentence, irrespective of a
39 subsequent order under Section 1203.4 of the Penal Code allowing
40 the person to withdraw a plea of guilty and enter a plea of not

1 guilty, or setting aside the verdict of guilty, or dismissing the
2 accusation, information, or indictment.

3 (b) Securing a license or registration by fraud, deceit, or
4 misrepresentation on any application for licensure or registration
5 submitted to the board, whether engaged in by an applicant for a
6 license or registration, or by a licensee in support of any application
7 for licensure or registration.

8 (c) Administering to himself or herself any controlled substance
9 or using of any of the dangerous drugs specified in Section 4022,
10 or of any alcoholic beverage to the extent, or in a manner, as to be
11 dangerous or injurious to the person applying for a registration or
12 license or holding a registration or license under this chapter, or
13 to any other person, or to the public, or, to the extent that the use
14 impairs the ability of the person applying for or holding a
15 registration or license to conduct with safety to the public the
16 practice authorized by the registration or license. The board shall
17 deny an application for a registration or license or revoke the
18 license or registration of any person, other than one who is licensed
19 as a physician and surgeon, who uses or offers to use drugs in the
20 course of performing marriage and family therapy services.

21 (d) Gross negligence or incompetence in the performance of
22 marriage and family therapy.

23 (e) Violating, attempting to violate, or conspiring to violate any
24 of the provisions of this chapter or any regulation adopted by the
25 board.

26 (f) Misrepresentation as to the type or status of a license or
27 registration held by the person, or otherwise misrepresenting or
28 permitting misrepresentation of his or her education, professional
29 qualifications, or professional affiliations to any person or entity.

30 (g) Impersonation of another by any licensee, registrant, or
31 applicant for a license or registration, or, in the case of a licensee,
32 allowing any other person to use his or her license or registration.

33 (h) Aiding or abetting, or employing, directly or indirectly, any
34 unlicensed or unregistered person to engage in conduct for which
35 a license or registration is required under this chapter.

36 (i) Intentionally or recklessly causing physical or emotional
37 harm to any client.

38 (j) The commission of any dishonest, corrupt, or fraudulent act
39 substantially related to the qualifications, functions, or duties of a
40 licensee or registrant.

1 (k) Engaging in sexual relations with a client, or a former client
2 within two years following termination of therapy, soliciting sexual
3 relations with a client, or committing an act of sexual abuse, or
4 sexual misconduct with a client, or committing an act punishable
5 as a sexually related crime, if that act or solicitation is substantially
6 related to the qualifications, functions, or duties of a marriage and
7 family therapist.

8 (l) Performing, or holding oneself out as being able to perform,
9 or offering to perform, or permitting any trainee or registered intern
10 under supervision to perform, any professional services beyond
11 the scope of the license authorized by this chapter.

12 (m) Failure to maintain confidentiality, except as otherwise
13 required or permitted by law, of all information that has been
14 received from a client in confidence during the course of treatment
15 and all information about the client that is obtained from tests or
16 other means.

17 (n) Prior to the commencement of treatment, failing to disclose
18 to the client or prospective client the fee to be charged for the
19 professional services, or the basis upon which that fee will be
20 computed.

21 (o) Paying, accepting, or soliciting any consideration,
22 compensation, or remuneration, whether monetary or otherwise,
23 for the referral of professional clients. All consideration,
24 compensation, or remuneration shall be in relation to professional
25 counseling services actually provided by the licensee. Nothing in
26 this subdivision shall prevent collaboration among two or more
27 licensees in a case or cases. However, no fee shall be charged for
28 that collaboration, except when disclosure of the fee has been made
29 in compliance with subdivision (n).

30 (p) Advertising in a manner that is false, misleading, or
31 deceptive.

32 (q) Reproduction or description in public, or in any publication
33 subject to general public distribution, of any psychological test or
34 other assessment device, the value of which depends in whole or
35 in part on the naivete of the subject, in ways that might invalidate
36 the test or device.

37 (r) Any conduct in the supervision of any registered intern or
38 trainee by any licensee that violates this chapter or any rules or
39 regulations adopted by the board.

1 (s) Performing or holding oneself out as being able to perform
2 professional services beyond the scope of one's competence, as
3 established by one's education, training, or experience. This
4 subdivision shall not be construed to expand the scope of the
5 license authorized by this chapter.

6 (t) Permitting a trainee or registered intern under one's
7 supervision or control to perform, or permitting the trainee or
8 registered intern to hold himself or herself out as competent to
9 perform, professional services beyond the trainee's or registered
10 intern's level of education, training, or experience.

11 (u) The violation of any statute or regulation governing the
12 gaining and supervision of experience required by this chapter.

13 (v) Failure to keep records consistent with sound clinical
14 judgment, the standards of the profession, and the nature of the
15 services being rendered.

16 (w) Failure to comply with the child abuse reporting
17 requirements of Section 11166 of the Penal Code.

18 (x) Failure to comply with the elder and dependent adult abuse
19 reporting requirements of Section 15630 of the Welfare and
20 Institutions Code.

21 (y) Willful violation of Chapter 1 (commencing with Section
22 123100) of Part 1 of Division 106 of the Health and Safety Code.

23 (z) Failure to comply with Section 2290.5.

24 (aa) (1) Engaging in an act described in Section 261, 286, 288a,
25 or 289 of the Penal Code with a minor or an act described in
26 Section 288 or 288.5 of the Penal Code regardless of whether the
27 act occurred prior to or after the time the registration or license
28 was issued by the board. An act described in this subdivision
29 occurring prior to the effective date of this subdivision shall
30 constitute unprofessional conduct and shall subject the licensee to
31 refusal, suspension, or revocation of a license under this section.

32 (2) The Legislature hereby finds and declares that protection of
33 the public, and in particular minors, from sexual misconduct by a
34 licensee is a compelling governmental interest, and that the ability
35 to suspend or revoke a license for sexual conduct with a minor
36 occurring prior to the effective date of this section is equally
37 important to protecting the public as is the ability to refuse a license
38 for sexual conduct with a minor occurring prior to the effective
39 date of this section.

1 (ab) Engaging in any conduct that subverts or attempts to subvert
2 any licensing examination or the administration of an examination
3 as described in Section 123.

4 SEC. 72. Section 4989.54 of the Business and Professions
5 Code is amended to read:

6 4989.54. The board may deny a license or may suspend or
7 revoke the license of a licensee if he or she has been guilty of
8 unprofessional conduct. Unprofessional conduct includes, but is
9 not limited to, the following:

10 (a) Conviction of a crime substantially related to the
11 qualifications, functions and duties of an educational psychologist.

12 (1) The record of conviction shall be conclusive evidence only
13 of the fact that the conviction occurred.

14 (2) The board may inquire into the circumstances surrounding
15 the commission of the crime in order to fix the degree of discipline
16 or to determine if the conviction is substantially related to the
17 qualifications, functions, or duties of a licensee under this chapter.

18 (3) A plea or verdict of guilty or a conviction following a plea
19 of nolo contendere made to a charge substantially related to the
20 qualifications, functions, or duties of a licensee under this chapter
21 shall be deemed to be a conviction within the meaning of this
22 section.

23 (4) The board may order a license suspended or revoked, or
24 may decline to issue a license when the time for appeal has elapsed,
25 or the judgment of conviction has been affirmed on appeal, or
26 when an order granting probation is made suspending the
27 imposition of sentence, irrespective of a subsequent order under
28 Section 1203.4 of the Penal Code allowing the person to withdraw
29 a plea of guilty and enter a plea of not guilty or setting aside the
30 verdict of guilty or dismissing the accusation, information, or
31 indictment.

32 (b) Securing a license by fraud, deceit, or misrepresentation on
33 an application for licensure submitted to the board, whether
34 engaged in by an applicant for a license or by a licensee in support
35 of an application for licensure.

36 (c) Administering to himself or herself a controlled substance
37 or using any of the dangerous drugs specified in Section 4022 or
38 an alcoholic beverage to the extent, or in a manner, as to be
39 dangerous or injurious to himself or herself or to any other person
40 or to the public or to the extent that the use impairs his or her ability

1 to safely perform the functions authorized by the license. The board
2 shall deny an application for a license or revoke the license of any
3 person, other than one who is licensed as a physician and surgeon,
4 who uses or offers to use drugs in the course of performing
5 educational psychology.

6 (d) Advertising in a manner that is false, misleading, or
7 deceptive.

8 (e) Violating, attempting to violate, or conspiring to violate any
9 of the provisions of this chapter or any regulation adopted by the
10 board.

11 (f) Commission of any dishonest, corrupt, or fraudulent act
12 substantially related to the qualifications, functions, or duties of a
13 licensee.

14 (g) Denial of licensure, revocation, suspension, restriction, or
15 any other disciplinary action imposed by another state or territory
16 or possession of the United States or by any other governmental
17 agency, on a license, certificate, or registration to practice
18 educational psychology or any other healing art. A certified copy
19 of the disciplinary action, decision, or judgment shall be conclusive
20 evidence of that action.

21 (h) Revocation, suspension, or restriction by the board of a
22 license, certificate, or registration to practice as a clinical social
23 worker or marriage and family therapist.

24 (i) Failure to keep records consistent with sound clinical
25 judgment, the standards of the profession, and the nature of the
26 services being rendered.

27 (j) Gross negligence or incompetence in the practice of
28 educational psychology.

29 (k) Misrepresentation as to the type or status of a license held
30 by the licensee or otherwise misrepresenting or permitting
31 misrepresentation of his or her education, professional
32 qualifications, or professional affiliations to any person or entity.

33 (l) Intentionally or recklessly causing physical or emotional
34 harm to any client.

35 (m) Engaging in sexual relations with a client or a former client
36 within two years following termination of professional services,
37 soliciting sexual relations with a client, or committing an act of
38 sexual abuse or sexual misconduct with a client or committing an
39 act punishable as a sexually related crime, if that act or solicitation

1 is substantially related to the qualifications, functions, or duties of
2 a licensed educational psychologist.

3 (n) Prior to the commencement of treatment, failing to disclose
4 to the client or prospective client the fee to be charged for the
5 professional services or the basis upon which that fee will be
6 computed.

7 (o) Paying, accepting, or soliciting any consideration,
8 compensation, or remuneration, whether monetary or otherwise,
9 for the referral of professional clients.

10 (p) Failing to maintain confidentiality, except as otherwise
11 required or permitted by law, of all information that has been
12 received from a client in confidence during the course of treatment
13 and all information about the client that is obtained from tests or
14 other means.

15 (q) Performing, holding himself or herself out as being able to
16 perform, or offering to perform any professional services beyond
17 the scope of the license authorized by this chapter or beyond his
18 or her field or fields of competence as established by his or her
19 education, training, or experience.

20 (r) Reproducing or describing in public, or in any publication
21 subject to general public distribution, any psychological test or
22 other assessment device the value of which depends in whole or
23 in part on the naivete of the subject in ways that might invalidate
24 the test or device. An educational psychologist shall limit access
25 to the test or device to persons with professional interests who can
26 be expected to safeguard its use.

27 (s) Aiding or abetting an unlicensed person to engage in conduct
28 requiring a license under this chapter.

29 (t) When employed by another person or agency, encouraging,
30 either orally or in writing, the employer's or agency's clientele to
31 utilize his or her private practice for further counseling without
32 the approval of the employing agency or administration.

33 (u) Failing to comply with the child abuse reporting
34 requirements of Section 11166 of the Penal Code.

35 (v) Failing to comply with the elder and adult dependent abuse
36 reporting requirements of Section 15630 of the Welfare and
37 Institutions Code.

38 (w) Willful violation of Chapter 1 (commencing with Section
39 123100) of Part 1 of Division 106 of the Health and Safety Code.

(x) (1) Engaging in an act described in Section 261, 286, 288a, or 289 of the Penal Code with a minor or an act described in Section 288 or 288.5 of the Penal Code regardless of whether the act occurred prior to or after the time the registration or license was issued by the board. An act described in this subdivision occurring prior to the effective date of this subdivision shall constitute unprofessional conduct and shall subject the licensee to refusal, suspension, or revocation of a license under this section.

(2) The Legislature hereby finds and declares that protection of the public, and in particular minors, from sexual misconduct by a licensee is a compelling governmental interest, and that the ability to suspend or revoke a license for sexual conduct with a minor occurring prior to the effective date of this section is equally important to protecting the public as is the ability to refuse a license for sexual conduct with a minor occurring prior to the effective date of this section.

(y) Failure to comply with Section 2290.5.

(z) Engaging in any conduct that subverts or attempts to subvert any licensing examination or the administration of an examination as described in Section 123.

SEC. 73. Section 4990.09 is added to the Business and Professions Code, to read:

4990.09. The board shall not publish on the Internet the final determination of a citation and fine of one thousand five hundred dollars (\$1,500) or less issued against a licensee or registrant pursuant to Section 125.9 for a period of time in excess of five years from the date of issuance of the citation.

SEC. 74. Section 4992.3 of the Business and Professions Code is amended to read:

4992.3. The board may deny a license or a registration, or may suspend or revoke the license or registration of a licensee or registrant if he or she has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

(a) The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the

1 conviction is substantially related to the qualifications, functions,
2 or duties of a licensee or registrant under this chapter. A plea or
3 verdict of guilty or a conviction following a plea of nolo contendere
4 made to a charge substantially related to the qualifications,
5 functions, or duties of a licensee or registrant under this chapter
6 is a conviction within the meaning of this section. The board may
7 order any license or registration suspended or revoked, or may
8 decline to issue a license or registration when the time for appeal
9 has elapsed, or the judgment of conviction has been affirmed on
10 appeal, or, when an order granting probation is made suspending
11 the imposition of sentence, irrespective of a subsequent order under
12 Section 1203.4 of the Penal Code allowing the person to withdraw
13 a plea of guilty and enter a plea of not guilty, or setting aside the
14 verdict of guilty, or dismissing the accusation, information, or
15 indictment.

16 (b) Securing a license or registration by fraud, deceit, or
17 misrepresentation on any application for licensure or registration
18 submitted to the board, whether engaged in by an applicant for a
19 license or registration, or by a licensee in support of any application
20 for licensure or registration.

21 (c) Administering to himself or herself any controlled substance
22 or using any of the dangerous drugs specified in Section 4022 or
23 any alcoholic beverage to the extent, or in a manner, as to be
24 dangerous or injurious to the person applying for a registration or
25 license or holding a registration or license under this chapter, or
26 to any other person, or to the public, or, to the extent that the use
27 impairs the ability of the person applying for or holding a
28 registration or license to conduct with safety to the public the
29 practice authorized by the registration or license. The board shall
30 deny an application for a registration or license or revoke the
31 license or registration of any person who uses or offers to use drugs
32 in the course of performing clinical social work. This provision
33 does not apply to any person also licensed as a physician and
34 surgeon under Chapter 5 (commencing with Section 2000) or the
35 Osteopathic Act who lawfully prescribes drugs to a patient under
36 his or her care.

37 (d) Gross negligence or incompetence in the performance of
38 clinical social work.

39 (e) Violating, attempting to violate, or conspiring to violate this
40 chapter or any regulation adopted by the board.

(f) Misrepresentation as to the type or status of a license or registration held by the person, or otherwise misrepresenting or permitting misrepresentation of his or her education, professional qualifications, or professional affiliations to any person or entity. For purposes of this subdivision, this misrepresentation includes, but is not limited to, misrepresentation of the person's qualifications as an adoption service provider pursuant to Section 8502 of the Family Code.

(g) Impersonation of another by any licensee, registrant, or applicant for a license or registration, or, in the case of a licensee, allowing any other person to use his or her license or registration.

(h) Aiding or abetting any unlicensed or unregistered person to engage in conduct for which a license or registration is required under this chapter.

(i) Intentionally or recklessly causing physical or emotional harm to any client.

(j) The commission of any dishonest, corrupt, or fraudulent act substantially related to the qualifications, functions, or duties of a licensee or registrant.

(k) Engaging in sexual relations with a client or with a former client within two years from the termination date of therapy with the client, soliciting sexual relations with a client, or committing an act of sexual abuse, or sexual misconduct with a client, or committing an act punishable as a sexually related crime, if that act or solicitation is substantially related to the qualifications, functions, or duties of a clinical social worker.

(l) Performing, or holding one's self out as being able to perform, or offering to perform or permitting, any registered associate clinical social worker or intern under supervision to perform any professional services beyond the scope of the license authorized by this chapter.

(m) Failure to maintain confidentiality, except as otherwise required or permitted by law, of all information that has been received from a client in confidence during the course of treatment and all information about the client that is obtained from tests or other means.

(n) Prior to the commencement of treatment, failing to disclose to the client or prospective client the fee to be charged for the professional services, or the basis upon which that fee will be computed.

1 (o) Paying, accepting, or soliciting any consideration,
2 compensation, or remuneration, whether monetary or otherwise,
3 for the referral of professional clients. All consideration,
4 compensation, or remuneration shall be in relation to professional
5 counseling services actually provided by the licensee. Nothing in
6 this subdivision shall prevent collaboration among two or more
7 licensees in a case or cases. However, no fee shall be charged for
8 that collaboration, except when disclosure of the fee has been made
9 in compliance with subdivision (n).

10 (p) Advertising in a manner that is false, misleading, or
11 deceptive.

12 (q) Reproduction or description in public, or in any publication
13 subject to general public distribution, of any psychological test or
14 other assessment device, the value of which depends in whole or
15 in part on the naivete of the subject, in ways that might invalidate
16 the test or device.

17 (r) Any conduct in the supervision of any registered associate
18 clinical social worker or intern by any licensee that violates this
19 chapter or any rules or regulations adopted by the board.

20 (s) Failure to keep records consistent with sound clinical
21 judgment, the standards of the profession, and the nature of the
22 services being rendered.

23 (t) Failure to comply with the child abuse reporting requirements
24 of Section 11166 of the Penal Code.

25 (u) Failure to comply with the elder and dependent adult abuse
26 reporting requirements of Section 15630 of the Welfare and
27 Institutions Code.

28 (v) Willful violation of Chapter 1 (commencing with Section
29 123100) of Part 1 of Division 106 of the Health and Safety Code.

30 (w) Failure to comply with Section 2290.5.

31 (x) (1) Engaging in an act described in Section 261, 286, 288a,
32 or 289 of the Penal Code with a minor or an act described in
33 Section 288 or 288.5 of the Penal Code regardless of whether the
34 act occurred prior to or after the time the registration or license
35 was issued by the board. An act described in this subdivision
36 occurring prior to the effective date of this subdivision shall
37 constitute unprofessional conduct and shall subject the licensee to
38 refusal, suspension, or revocation of a license under this section.

39 (2) The Legislature hereby finds and declares that protection of
40 the public, and in particular minors, from sexual misconduct by a

1 licensee is a compelling governmental interest, and that the ability
2 to suspend or revoke a license for sexual conduct with a minor
3 occurring prior to the effective date of this section is equally
4 important to protecting the public as is the ability to refuse a license
5 for sexual conduct with a minor occurring prior to the effective
6 date of this section.

7 (y) Engaging in any conduct that subverts or attempts to subvert
8 any licensing examination or the administration of an examination
9 as described in Section 123.

10 SEC. 75. Section 4994.1 of the Business and Professions Code
11 is repealed.

12 SEC. 76. Section 4996.2 of the Business and Professions Code
13 is amended to read:

14 4996.2. Each applicant shall furnish evidence satisfactory to
15 the board that he or she complies with all of the following
16 requirements:

17 (a) Is at least 21 years of age.

18 (b) Has received a master's degree from an accredited school
19 of social work.

20 (c) Has had two years of supervised post-master's degree
21 experience, as specified in Section 4996.23.

22 (d) Has not committed any crimes or acts constituting grounds
23 for denial of licensure under Section 480. The board shall not issue
24 a registration or license to any person who has been convicted of
25 any crime in this or another state or in a territory of the United
26 States that involves sexual abuse of children or who is required to
27 register pursuant to Section 290 of the Penal Code or the equivalent
28 in another state or territory.

29 (e) Has completed adequate instruction and training in the
30 subject of alcoholism and other chemical substance dependency.
31 This requirement applies only to applicants who matriculate on or
32 after January 1, 1986.

33 (f) Has completed instruction and training in spousal or partner
34 abuse assessment, detection, and intervention. This requirement
35 applies to an applicant who began graduate training during the
36 period commencing on January 1, 1995, and ending on December
37 31, 2003. An applicant who began graduate training on or after
38 January 1, 2004, shall complete a minimum of 15 contact hours
39 of coursework in spousal or partner abuse assessment, detection,
40 and intervention strategies, including knowledge of community

resources, cultural factors, and same gender abuse dynamics. Coursework required under this subdivision may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course. This requirement for coursework shall be satisfied by, and the board shall accept in satisfaction of the requirement, a certification from the chief academic officer of the educational institution from which the applicant graduated that the required coursework is included within the institution's required curriculum for graduation.

(g) Has completed a minimum of 10 contact hours of training or coursework in human sexuality as specified in Section 1807 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

(h) Has completed a minimum of seven contact hours of training or coursework in child abuse assessment and reporting as specified in Section 1807.2 of Title 16 of the California Code of Regulations. This training or coursework may be satisfactory if taken either in fulfillment of other educational requirements for licensure or in a separate course.

SEC. 77. Section 4996.17 of the Business and Professions Code is amended to read:

4996.17. (a) Experience gained outside of California shall be accepted toward the licensure requirements if it is substantially the equivalent of the requirements of this chapter.

(b) The board may issue a license to any person who, at the time of application, holds a valid active clinical social work license issued by a board of clinical social work examiners or corresponding authority of any state, if the person passes the board administered licensing examinations as specified in Section 4996.1 and pays the required fees. Issuance of the license is conditioned upon all of the following:

(1) The applicant has supervised experience that is substantially the equivalent of that required by this chapter. If the applicant has less than 3,200 hours of qualifying supervised experience, time actively licensed as a clinical social worker shall be accepted at a rate of 100 hours per month up to a maximum of 1,200 hours.

(2) Completion of the following coursework or training in or out of this state:

1 (A) A minimum of seven contact hours of training or coursework
2 in child abuse assessment and reporting as specified in Section 28,
3 and any regulations promulgated thereunder.

4 (B) A minimum of 10 contact hours of training or coursework
5 in human sexuality as specified in Section 25, and any regulations
6 promulgated thereunder.

7 (C) A minimum of 15 contact hours of training or coursework
8 in alcoholism and other chemical substance dependency, as
9 specified by regulation.

10 (D) A minimum of 15 contact hours of coursework or training
11 in spousal or partner abuse assessment, detection, and intervention
12 strategies.

13 (3) The applicant's license is not suspended, revoked, restricted,
14 sanctioned, or voluntarily surrendered in any state.

15 (4) The applicant is not currently under investigation in any
16 other state, and has not been charged with an offense for any act
17 substantially related to the practice of social work by any public
18 agency, entered into any consent agreement or been subject to an
19 administrative decision that contains conditions placed by an
20 agency upon an applicant's professional conduct or practice,
21 including any voluntary surrender of license, or been the subject
22 of an adverse judgment resulting from the practice of social work
23 that the board determines constitutes evidence of a pattern of
24 incompetence or negligence.

25 (5) The applicant shall provide a certification from each state
26 where he or she holds a license pertaining to licensure, disciplinary
27 action, and complaints pending.

28 (6) The applicant is not subject to denial of licensure under
29 Section 480, 4992.3, 4992.35, or 4992.36.

30 (c) The board may issue a license to any person who, at the time
31 of application, has held a valid, active clinical social work license
32 for a minimum of four years, issued by a board of clinical social
33 work examiners or a corresponding authority of any state, if the
34 person passes the board administered licensing examinations as
35 specified in Section 4996.1 and pays the required fees. Issuance
36 of the license is conditioned upon all of the following:

37 (1) Completion of the following coursework or training in or
38 out of state:

1 (A) A minimum of seven contact hours of training or coursework
2 in child abuse assessment and reporting as specified in Section 28,
3 and any regulations promulgated thereunder.

4 (B) A minimum of 10 contact hours of training or coursework
5 in human sexuality as specified in Section 25, and any regulations
6 promulgated thereunder.

7 (C) A minimum of 15 contact hours of training or coursework
8 in alcoholism and other chemical substance dependency, as
9 specified by regulation.

10 (D) A minimum of 15 contact hours of coursework or training
11 in spousal or partner abuse assessment, detection, and intervention
12 strategies.

13 (2) The applicant has been licensed as a clinical social worker
14 continuously for a minimum of four years prior to the date of
15 application.

16 (3) The applicant's license is not suspended, revoked, restricted,
17 sanctioned, or voluntarily surrendered in any state.

18 (4) The applicant is not currently under investigation in any
19 other state, and has not been charged with an offense for any act
20 substantially related to the practice of social work by any public
21 agency, entered into any consent agreement or been subject to an
22 administrative decision that contains conditions placed by an
23 agency upon an applicant's professional conduct or practice,
24 including any voluntary surrender of license, or been the subject
25 of an adverse judgment resulting from the practice of social work
26 that the board determines constitutes evidence of a pattern of
27 incompetence or negligence.

28 (5) The applicant provides a certification from each state where
29 he or she holds a license pertaining to licensure, disciplinary action,
30 and complaints pending.

31 (6) The applicant is not subject to denial of licensure under
32 Section 480, 4992.3, 4992.35, or 4992.36.

33 SEC. 78. Section 4996.18 of the Business and Professions
34 Code is amended to read:

35 4996.18. (a) A person who wishes to be credited with
36 experience toward licensure requirements shall register with the
37 board as an associate clinical social worker prior to obtaining that
38 experience. The application shall be made on a form prescribed
39 by the board.

1 (b) An applicant for registration shall satisfy the following
2 requirements:

3 (1) Possess a master's degree from an accredited school or
4 department of social work.

5 (2) Have committed no crimes or acts constituting grounds for
6 denial of licensure under Section 480.

7 (c) An applicant who possesses a master's degree from a school
8 or department of social work that is a candidate for accreditation
9 by the Commission on Accreditation of the Council on Social
10 Work Education shall be eligible, and shall be required, to register
11 as an associate clinical social worker in order to gain experience
12 toward licensure if the applicant has not committed any crimes or
13 acts that constitute grounds for denial of licensure under Section
14 480. That applicant shall not, however, be eligible for examination
15 until the school or department of social work has received
16 accreditation by the Commission on Accreditation of the Council
17 on Social Work Education.

18 (d) Any experience obtained under the supervision of a spouse
19 or relative by blood or marriage shall not be credited toward the
20 required hours of supervised experience. Any experience obtained
21 under the supervision of a supervisor with whom the applicant has
22 a personal relationship that undermines the authority or
23 effectiveness of the supervision shall not be credited toward the
24 required hours of supervised experience.

25 (e) An applicant who possesses a master's degree from an
26 accredited school or department of social work shall be able to
27 apply experience the applicant obtained during the time the
28 accredited school or department was in candidacy status by the
29 Commission on Accreditation of the Council on Social Work
30 Education toward the licensure requirements, if the experience
31 meets the requirements of Section 4996.23. This subdivision shall
32 apply retroactively to persons who possess a master's degree from
33 an accredited school or department of social work and who
34 obtained experience during the time the accredited school or
35 department was in candidacy status by the Commission on
36 Accreditation of the Council on Social Work Education.

37 (f) An applicant for registration or licensure trained in an
38 educational institution outside the United States shall demonstrate
39 to the satisfaction of the board that he or she possesses a master's
40 of social work degree that is equivalent to a master's degree issued

1 from a school or department of social work that is accredited by
2 the Commission on Accreditation of the Council on Social Work
3 Education. These applicants shall provide the board with a
4 comprehensive evaluation of the degree and shall provide any
5 other documentation the board deems necessary. The board has
6 the authority to make the final determination as to whether a degree
7 meets all requirements, including, but not limited to, course
8 requirements regardless of evaluation or accreditation.

9 (g) A registrant shall not provide clinical social work services
10 to the public for a fee, monetary or otherwise, except as an
11 employee.

12 (h) A registrant shall inform each client or patient prior to
13 performing any professional services that he or she is unlicensed
14 and is under the supervision of a licensed professional.

15 SEC. 79. Section 4996.20 of the Business and Professions
16 Code is repealed.

17 SEC. 80. Section 4996.21 of the Business and Professions
18 Code is repealed.

19 SEC. 81. Section 4996.23 of the Business and Professions
20 Code is amended to read:

21 4996.23. The experience required by subdivision (c) of Section
22 4996.2 shall meet the following criteria:

23 (a) All persons registered with the board on and after January
24 1, 2002, shall have at least 3,200 hours of post-master's degree
25 supervised experience providing clinical social work services as
26 permitted by Section 4996.9. At least 1,700 hours shall be gained
27 under the supervision of a licensed clinical social worker. The
28 remaining required supervised experience may be gained under
29 the supervision of a licensed mental health professional acceptable
30 to the board as defined by a regulation adopted by the board. This
31 experience shall consist of the following:

32 (1) A minimum of 2,000 hours in clinical psychosocial
33 diagnosis, assessment, and treatment, including psychotherapy or
34 counseling.

35 (2) A maximum of 1,200 hours in client-centered advocacy,
36 consultation, evaluation, and research.

37 (3) Of the 2,000 clinical hours required in paragraph (1), no less
38 than 750 hours shall be face-to-face individual or group
39 psychotherapy provided to clients in the context of clinical social
40 work services.

1 (4) A minimum of two years of supervised experience is required
2 to be obtained over a period of not less than 104 weeks and shall
3 have been gained within the six years immediately preceding the
4 date on which the application for licensure was filed.

5 (5) Experience shall not be credited for more than 40 hours in
6 any week.

7 (b) “Supervision” means responsibility for, and control of, the
8 quality of clinical social work services being provided.
9 Consultation or peer discussion shall not be considered to be
10 supervision.

11 (c) (1) Prior to the commencement of supervision, a supervisor
12 shall comply with all requirements enumerated in Section 1870 of
13 Title 16 of the California Code of Regulations and shall sign under
14 penalty of perjury the “Responsibility Statement for Supervisors
15 of an Associate Clinical Social Worker” form.

16 (2) Supervised experience shall include at least one hour of
17 direct supervisor contact for a minimum of 104 weeks.

18 (3) For purposes of this section, “one hour of direct supervisor
19 contact” means one hour per week of face-to-face contact on an
20 individual basis or two hours of face-to-face contact in a group
21 conducted within the same week as the hours claimed.

22 (4) An associate shall receive an average of at least one hour of
23 direct supervisor contact for every week in which more than 10
24 hours of face-to-face psychotherapy is performed in each setting
25 in which experience is gained. No more than five hours of
26 supervision, whether individual or group, shall be credited during
27 any single week.

28 (5) Group supervision shall be provided in a group of not more
29 than eight supervisees and shall be provided in segments lasting
30 no less than one continuous hour.

31 (6) An associate clinical social worker working in a
32 governmental entity, a school, college, or university, or an
33 institution that is both nonprofit and charitable may be credited
34 with up to 30 hours of direct supervisor contact, via two-way,
35 real-time videoconferencing. The supervisor shall be responsible
36 for ensuring that client confidentiality is upheld.

37 (7) Of the 104 weeks of required supervision, 52 weeks shall
38 be individual supervision, and of the 52 weeks of required
39 individual supervision, not less than 13 weeks shall be supervised
40 by a licensed clinical social worker.

1 (d) The supervisor and the associate shall develop a supervisory
2 plan that describes the goals and objectives of supervision. These
3 goals shall include the ongoing assessment of strengths and
4 limitations and the assurance of practice in accordance with the
5 laws and regulations. The associate shall submit to the board the
6 initial original supervisory plan upon application for licensure.

7 (e) Experience shall only be gained in a setting that meets both
8 of the following:

9 (1) Lawfully and regularly provides clinical social work, mental
10 health counseling, or psychotherapy.

11 (2) Provides oversight to ensure that the associate's work at the
12 setting meets the experience and supervision requirements set forth
13 in this chapter and is within the scope of practice for the profession
14 as defined in Section 4996.9.

15 (f) Experience shall not be gained until the applicant has been
16 registered as an associate clinical social worker.

17 (g) Employment in a private practice as defined in subdivision
18 (h) shall not commence until the applicant has been registered as
19 an associate clinical social worker.

20 (h) A private practice setting is a setting that is owned by a
21 licensed clinical social worker, a licensed marriage and family
22 therapist, a licensed psychologist, a licensed physician and surgeon,
23 or a professional corporation of any of those licensed professions.

24 (i) If volunteering, the associate shall provide the board with a
25 letter from his or her employer verifying his or her voluntary status
26 upon application for licensure.

27 (j) If employed, the associate shall provide the board with copies
28 of his or her W-2 tax forms for each year of experience claimed
29 upon application for licensure.

30 (k) While an associate may be either a paid employee or
31 volunteer, employers are encouraged to provide fair remuneration
32 to associates.

33 (l) Associates shall not do the following:

34 (1) Receive any remuneration from patients or clients and shall
35 only be paid by his or her employer.

36 (2) Have any proprietary interest in the employer's business.

37 (m) An associate, whether employed or volunteering, may obtain
38 supervision from a person not employed by the associate's
39 employer if that person has signed a written agreement with the

1 employer to take supervisory responsibility for the associate's
2 social work services.

3 (n) Notwithstanding any other provision of law, associates and
4 applicants for examination shall receive a minimum of one hour
5 of supervision per week for each setting in which he or she is
6 working.

7 SEC. 82. Section 5515.5 is added to the Business and
8 Professions Code, to read:

9 5515.5. (a) Notwithstanding Section 5515, the following
10 provisions shall apply:

11 (1) Of the architect members of the board appointed by the
12 Governor whose terms commence on July 1, 2009, the term of two
13 members shall expire on June 30, 2013, and the term of one
14 member shall expire on June 30, 2015.

15 (2) Of the architect members of the board appointed by the
16 Governor whose terms commence on July 1, 2010, one member's
17 term shall expire on June 30, 2014, and one member's term shall
18 expire on June 30, 2016.

19 (3) The term of the public member of the board appointed by
20 the Governor whose term commences on July 1, 2010, shall expire
21 on June 30, 2015.

22 (4) Of the public members of the board appointed by the
23 Governor whose terms commence on July 1, 2012, one member's
24 term shall expire on June 30, 2016, and one member's term shall
25 expire on June 30, 2017.

26 (b) Except as provided in subdivision (a), this section shall not
27 be construed to affect the application of Section 5515 to the terms
28 of any current or future members of the board.

29 SEC. 83. Section 5801 of the Business and Professions Code
30 is amended to read:

31 5801. A certified interior designer may obtain a stamp from
32 an interior design organization that shall include a number that
33 uniquely identifies and bears the name of that certified interior
34 designer. The stamp certifies that the interior designer has provided
35 the interior design organization with evidence of passage of an
36 interior design examination approved by that interior design
37 organization and any of the following:

38 (a) He or she is a graduate of a four or five-year accredited
39 interior design degree program, and has two years of diversified
40 interior design experience.

1 (b) He or she has completed a three-year accredited interior
2 design certificate program, and has completed three years of
3 diversified interior design experience.

4 (c) He or she has completed a two-year accredited interior design
5 program and has completed four years of diversified interior design
6 experience.

7 (d) He or she has at least eight years of interior design education,
8 or at least eight years of diversified interior design experience, or
9 a combination of interior design education and diversified interior
10 design experience that together total at least eight years.

11 SEC. 84. Section 6534 of the Business and Professions Code
12 is amended to read:

13 6534. (a) The bureau shall maintain the following information
14 in each licensee's file, shall make this information available to a
15 court for any purpose, including the determination of the
16 appropriateness of appointing or continuing the appointment of,
17 or removing, the licensee as a conservator, guardian, trustee, or
18 personal representative, and shall otherwise keep this information
19 confidential, except as provided in subdivisions (b) and (c) of this
20 section:

21 (1) The names of the licensee's current conservatees or wards
22 and the trusts or estates currently administered by the licensee.

23 (2) The aggregate dollar value of all assets currently under the
24 licensee's supervision as a professional fiduciary.

25 (3) The licensee's current addresses and telephone numbers for
26 his or her place of business and place of residence.

27 (4) Whether the licensee has ever been removed for cause as a
28 conservator, guardian, trustee, or personal representative or has
29 ever resigned as a conservator, guardian, trustee, or personal
30 representative in a specific case, the circumstances causing that
31 removal or resignation, and the case names, court locations, and
32 case numbers associated with the removal or resignation.

33 (5) The case names, court locations, and case numbers of all
34 conservatorship, guardianship, or trust or other estate
35 administration cases that are closed for which the licensee served
36 as the conservator, guardian, trustee, or personal representative.

37 (6) Information regarding any discipline imposed upon the
38 licensee by the bureau.

1 (7) Whether the licensee has filed for bankruptcy or held a
2 controlling financial interest in a business that filed for bankruptcy
3 in the last 10 years.

4 (b) The bureau shall make the information in paragraphs (2),
5 (4), (6), and (7) of subdivision (a) available to the public.

6 (c) The bureau shall also publish information regarding licensees
7 on the Internet as specified in Section 27. The information shall
8 include, but shall not be limited to, information regarding license
9 status and the information specified under subdivision (b).

10 SEC. 85. Section 6536 of the Business and Professions Code
11 is amended to read:

12 6536. The bureau shall review all applications for licensure
13 and may investigate an applicant's qualifications for licensure.
14 The bureau shall approve those applications that meet the
15 requirements for licensure, but shall not issue a license to any
16 applicant who meets any of the following criteria:

17 (a) Does not meet the qualifications for licensure under this
18 chapter.

19 (b) Has been convicted of a crime substantially related to the
20 qualifications, functions, or duties of a fiduciary.

21 (c) Has engaged in fraud or deceit in applying for a license under
22 this chapter.

23 (d) Has engaged in dishonesty, fraud, or gross negligence in
24 performing the functions or duties of a fiduciary, including
25 engaging in such conduct prior to January 1, 2009.

26 (e) Has been removed as a fiduciary by a court for breach of
27 trust committed intentionally, with gross negligence, in bad faith,
28 or with reckless indifference, or has demonstrated a pattern of
29 negligent conduct, including a removal prior to January 1, 2009,
30 and all appeals have been taken, or the time to file an appeal has
31 expired.

32 SEC. 86. Section 6561 of the Business and Professions Code
33 is amended to read:

34 6561. (a) A licensee shall initially, and annually thereafter,
35 file with the bureau a statement under penalty of perjury containing
36 the following:

37 (1) Her or his business address, telephone number, and facsimile
38 number.

39 (2) Whether or not he or she has been removed as a conservator,
40 guardian, trustee, or personal representative for cause. The licensee

1 may file an additional statement of the issues and facts pertaining
2 to the case.

3 (3) The case names, court locations, and case numbers for all
4 matters where the licensee has been appointed by the court.

5 (4) Whether he or she has been found by a court to have
6 breached a fiduciary duty.

7 (5) Whether he or she has resigned or settled a matter in which
8 a complaint has been filed, along with the case number and a
9 statement of the issues and facts pertaining to the allegations.

10 (6) Any licenses or professional certificates held by the licensee.

11 (7) Any ownership or beneficial interests in any businesses or
12 other enterprises held by the licensee or by a family member that
13 receives or has received payments from a client of the licensee.

14 (8) Whether the licensee has filed for bankruptcy or held a
15 controlling financial interest in a business that filed for bankruptcy
16 in the last ten years.

17 (9) The name of any persons or entities that have an interest in
18 the licensee's professional fiduciary business.

19 (10) Whether the licensee has been convicted of a crime.

20 (b) The statement by the licensee required by this section may
21 be filed electronically with the bureau, in a form approved by the
22 bureau. However, any additional statement filed under paragraph
23 (2) of subdivision (a) shall be filed in writing.

24 SEC. 87. Section 6761 of the Business and Professions Code
25 is repealed.

26 SEC. 88. Section 7616 of the Business and Professions Code
27 is amended to read:

28 7616. (a) A licensed funeral establishment is a place of
29 business conducted in a building or separate portion of a building
30 having a specific street address or location and devoted exclusively
31 to those activities as are incident, convenient, or related to the
32 preparation and arrangements, financial and otherwise, for the
33 funeral, transportation, burial or other disposition of human remains
34 and including, but not limited to, either of the following:

35 (1) A suitable room for the storage of human remains.

36 (2) A preparation room equipped with a sanitary flooring and
37 necessary drainage and ventilation and containing necessary
38 instruments and supplies for the preparation, sanitation, or
39 embalming of human remains for burial or transportation.

(b) Licensed funeral establishments under common ownership or by contractual agreement within close geographical proximity of each other shall be deemed to be in compliance with the requirements of paragraph (1) or (2) of subdivision (a) if at least one of the establishments has a room described in those paragraphs.

(c) Except as provided in Section 7609, and except accredited embalming schools and colleges engaged in teaching students the art of embalming, no person shall operate or maintain or hold himself or herself out as operating or maintaining any of the facilities specified in paragraph (2) of subdivision (a), unless he or she is licensed as a funeral director.

(d) Nothing in this section shall be construed to require a funeral establishment to conduct its business or financial transactions at the same location as its preparation or storage of human remains.

(e) Nothing in this chapter shall be deemed to render unlawful the conduct of any ambulance service from the same premises as those on which a licensed funeral establishment is conducted, including the maintenance in connection with the funeral establishment of garages for the ambulances and living quarters for ambulance drivers.

SEC. 89. Section 7629 of the Business and Professions Code is amended to read:

7629. No funeral establishment shall be conducted or held forth as being conducted or advertised as being conducted under any name which might tend to mislead the public or which would be sufficiently like the name of any other licensed funeral establishment so as to constitute an unfair method of competition.

Any funeral director desiring to change the name appearing on his or her license may do so by applying to the bureau and paying the fee fixed by this chapter.

SEC. 90. Section 8740 of the Business and Professions Code is amended to read:

8740. (a) An application for each division of the examination for a license as a land surveyor shall be made to the board on the form prescribed by it, with all statements therein made under oath, and shall be accompanied by the application fee fixed by this chapter.

(b) The board may authorize an organization specified by the board pursuant to Section 8745 to receive directly from applicants

1 payment of the examination fees charged by that organization as
2 payment for examination materials and services.

3 SEC. 91. Section 8746 of the Business and Professions Code
4 is amended to read:

5 8746. An applicant failing on examination, upon the payment
6 of another application fee, may be examined again.

7 SEC. 92. Section 9855.1.5 is added to the Business and
8 Professions Code, to read:

9 9855.1.5. (a) Notwithstanding any other provision of law, a
10 violation of Section 9855.1 is an infraction subject to the
11 procedures described in Sections 19.6 and 19.7 of the Penal Code
12 when either of the following applies:

13 (1) A complaint or a written notice to appear in court pursuant
14 to Chapter 5C (commencing with Section 853.5) of Title 3 of Part
15 2 of the Penal Code is filed in court charging the offense as an
16 infraction unless the defendant, at the time he or she is arraigned,
17 after being advised of his or her rights, elects to have the case
18 proceed as a misdemeanor.

19 (2) The court, with the consent of the defendant and the
20 prosecution, determines that the offense is an infraction in which
21 event the case shall proceed as if the defendant has been arraigned
22 on an infraction complaint.

23 (b) Subdivision (a) does not apply to a violation of Section
24 9855.1 if the defendant has had his or her registration previously
25 revoked or suspended.

26 (c) Notwithstanding any other provision of law, a violation of
27 Section 9855.1, which is an infraction, is punishable by a fine of
28 not less than two hundred fifty dollars (\$250) and not more than
29 one thousand dollars (\$1,000).

30 No portion of the minimum fine may be suspended by the court
31 unless as a condition of that suspension the defendant is required
32 to submit proof of a current valid registration to act as a service
33 contractor the absence of which was the basis for his or her
34 conviction.

35 SEC. 93. Section 8659 of the Government Code is amended
36 to read:

37 8659. Any physician or surgeon (whether licensed in this state
38 or any other state), hospital, pharmacist, respiratory care
39 practitioner, nurse, or dentist who renders services during any state
40 of war emergency, a state of emergency, or a local emergency at

1 the express or implied request of any responsible state or local
2 official or agency shall have no liability for any injury sustained
3 by any person by reason of those services, regardless of how or
4 under what circumstances or by what cause those injuries are
5 sustained; provided, however, that the immunity herein granted
6 shall not apply in the event of a willful act or omission.

7 SEC. 94. Section 8778.5 of the Health and Safety Code is
8 amended to read:

9 8778.5. Each special care trust fund established pursuant to
10 this article shall be administered in compliance with the following
11 requirements:

12 (a) (1) The board of trustees shall honor a written request of
13 revocation by the trustor within 30 days upon receipt of the written
14 request.

15 (2) Except as provided in paragraph (3), the board of trustees
16 upon revocation of a special care trust may assess a revocation fee
17 on the earned income of the trust only, the amount of which shall
18 not exceed 10 percent of the trust corpus, as set forth in subdivision
19 (c) of Section 2370 of Title 16 of the California Code of
20 Regulations.

21 (3) If, prior to or upon the death of the beneficiary of a revocable
22 special care trust, the cemetery authority is unable to perform the
23 services of the special care trust fund agreement, the board of
24 trustees shall pay the entire trust corpus and all earned income to
25 the beneficiary or trustor, or the legal representative of either the
26 beneficiary or trustor, without the imposition of a revocation fee.

27 (b) Notwithstanding subdivision (d) of Section 2370 of Title 16
28 of the California Code of Regulations, the board of trustees may
29 charge an annual fee for administering a revocable special care
30 trust fund, which may be recovered by administrative withdrawals
31 from current trust income, but the total administrative withdrawals
32 in any year shall not exceed 4 percent of the trust balance.

33 (c) Notwithstanding Section 8785, any person, partnership, or
34 corporation who violates this section shall be subject to disciplinary
35 action as provided in Article 6 (commencing with Section 9725)
36 of Chapter 19 of Division 3 of the Business and Professions Code,
37 or by a civil fine not exceeding five hundred dollars (\$500), or by
38 both, as determined by the Cemetery and Funeral Bureau and shall
39 not be guilty of a crime.

1 SEC. 95. Section 11150 of the Health and Safety Code is
2 amended to read:

3 11150. No person other than a physician, dentist, podiatrist,
4 or veterinarian, or naturopathic doctor acting pursuant to Section
5 3640.7 of the Business and Professions Code, or pharmacist acting
6 within the scope of a project authorized under Article 1
7 (commencing with Section 128125) of Chapter 3 of Part 3 of
8 Division 107 or within the scope of Section 4052.1 or 4052.2 of
9 the Business and Professions Code, a registered nurse acting within
10 the scope of a project authorized under Article 1 (commencing
11 with Section 128125) of Chapter 3 of Part 3 of Division 107, a
12 certified nurse-midwife acting within the scope of Section 2746.51
13 of the Business and Professions Code, a nurse practitioner acting
14 within the scope of Section 2836.1 of the Business and Professions
15 Code, a physician assistant acting within the scope of a project
16 authorized under Article 1 (commencing with Section 128125) of
17 Chapter 3 of Part 3 of Division 107 or Section 3502.1 of the
18 Business and Professions Code, a naturopathic doctor acting within
19 the scope of Section 3640.5 of the Business and Professions Code,
20 or an optometrist acting within the scope of Section 3041 of the
21 Business and Professions Code, or an out-of-state prescriber acting
22 pursuant to Section 4005 of the Business and Professions Code
23 shall write or issue a prescription.

24 SEC. 96. Section 11165 of the Health and Safety Code is
25 amended to read:

26 11165. (a) To assist law enforcement and regulatory agencies
27 in their efforts to control the diversion and resultant abuse of
28 Schedule II, Schedule III, and Schedule IV controlled substances,
29 and for statistical analysis, education, and research, the Department
30 of Justice shall, contingent upon the availability of adequate funds
31 from the Contingent Fund of the Medical Board of California, the
32 Pharmacy Board Contingent Fund, the State Dentistry Fund, the
33 Board of Registered Nursing Fund, and the Osteopathic Medical
34 Board of California Contingent Fund, maintain the Controlled
35 Substance Utilization Review and Evaluation System (CURES)
36 for the electronic monitoring of the prescribing and dispensing of
37 Schedule II, Schedule III, and Schedule IV controlled substances
38 by all practitioners authorized to prescribe or dispense these
39 controlled substances.

(b) The reporting of Schedule III and Schedule IV controlled substance prescriptions to CURES shall be contingent upon the availability of adequate funds from the Department of Justice. The Department of Justice may seek and use grant funds to pay the costs incurred from the reporting of controlled substance prescriptions to CURES. Funds shall not be appropriated from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, the Naturopathic Doctor's Fund, or the Osteopathic Medical Board of California Contingent Fund to pay the costs of reporting Schedule III and Schedule IV controlled substance prescriptions to CURES.

(c) CURES shall operate under existing provisions of law to safeguard the privacy and confidentiality of patients. Data obtained from CURES shall only be provided to appropriate state, local, and federal persons or public agencies for disciplinary, civil, or criminal purposes and to other agencies or entities, as determined by the Department of Justice, for the purpose of educating practitioners and others in lieu of disciplinary, civil, or criminal actions. Data may be provided to public or private entities, as approved by the Department of Justice, for educational, peer review, statistical, or research purposes, provided that patient information, including any information that may identify the patient, is not compromised. Further, data disclosed to any individual or agency as described in this subdivision shall not be disclosed, sold, or transferred to any third party.

(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

(1) Full name, address, and the telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure and license number; federal controlled substance registration number; and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

1 (3) Pharmacy prescription number, license number, and federal
2 controlled substance registration number.

3 (4) NDC (National Drug Code) number of the controlled
4 substance dispensed.

5 (5) Quantity of the controlled substance dispensed.

6 (6) ICD-9 (diagnosis code), if available.

7 (7) Number of refills ordered.

8 (8) Whether the drug was dispensed as a refill of a prescription
9 or as a first-time request.

10 (9) Date of origin of the prescription.

11 (10) Date of dispensing of the prescription.

12 (e) This section shall become operative on January 1, 2005.

13 *SEC. 97. Section 14132.100 of the Welfare and Institutions*
14 *Code is amended to read:*

15 14132.100. (a) The federally qualified health center services
16 described in Section 1396d(a)(2)(C) of Title 42 of the United States
17 Code are covered benefits.

18 (b) The rural health clinic services described in Section 1396d
19 (a)(2)(B) of Title 42 of the United States Code are covered benefits.

20 (c) Federally qualified health center services and rural health
21 clinic services shall be reimbursed on a per-visit basis in
22 accordance with the definition of “visit” set forth in subdivision
23 (g).

24 (d) Effective October 1, 2004, and on each October 1, thereafter,
25 until no longer required by federal law, federally qualified health
26 center (FQHC) and rural health clinic (RHC) per-visit rates shall
27 be increased by the Medicare Economic Index applicable to
28 primary care services in the manner provided for in Section
29 1396a(bb)(3)(A) of Title 42 of the United States Code. Prior to
30 January 1, 2004, FQHC and RHC per-visit rates shall be adjusted
31 by the Medicare Economic Index in accordance with the
32 methodology set forth in the state plan in effect on October 1,
33 2001.

34 (e) (1) An FQHC or RHC may apply for an adjustment to its
35 per-visit rate based on a change in the scope of services provided
36 by the FQHC or RHC. Rate changes based on a change in the
37 scope of services provided by an FQHC or RHC shall be evaluated
38 in accordance with Medicare reasonable cost principles, as set
39 forth in Part 413 (commencing with Section 413.1) of Title 42 of
40 the Code of Federal Regulations, or its successor.

(2) Subject to the conditions set forth in subparagraphs (A) to (D), inclusive, of paragraph (3), a change in scope of service means any of the following:

(A) The addition of a new FQHC or RHC service that is not incorporated in the baseline prospective payment system (PPS) rate, or a deletion of an FQHC or RHC service that is incorporated in the baseline PPS rate.

(B) A change in service due to amended regulatory requirements or rules.

(C) A change in service resulting from relocating or remodeling an FQHC or RHC.

(D) A change in types of services due to a change in applicable technology and medical practice utilized by the center or clinic.

(E) An increase in service intensity attributable to changes in the types of patients served, including, but not limited to, populations with HIV or AIDS, or other chronic diseases, or homeless, elderly, migrant, or other special populations.

(F) Any changes in any of the services described in subdivision (a) or (b), or in the provider mix of an FQHC or RHC or one of its sites.

(G) Changes in operating costs attributable to capital expenditures associated with a modification of the scope of any of the services described in subdivision (a) or (b), including new or expanded service facilities, regulatory compliance, or changes in technology or medical practices at the center or clinic.

(H) Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and residents.

(I) Any changes in the scope of a project approved by the federal Health Resources and Service Administration (HRSA).

(3) No change in costs shall, in and of itself, be considered a scope-of-service change unless all of the following apply:

(A) The increase or decrease in cost is attributable to an increase or decrease in the scope of services defined in subdivisions (a) and (b), as applicable.

(B) The cost is allowable under Medicare reasonable cost principles set forth in Part 413 (commencing with Section 413) of Subchapter B of Chapter 4 of Title 42 of the Code of Federal Regulations, or its successor.

1 (C) The change in the scope of services is a change in the type,
2 intensity, duration, or amount of services, or any combination
3 thereof.

4 (D) The net change in the FQHC's or RHC's rate equals or
5 exceeds 1.75 percent for the affected FQHC or RHC site. For
6 FQHCs and RHCs that filed consolidated cost reports for multiple
7 sites to establish the initial prospective payment reimbursement
8 rate, the 1.75-percent threshold shall be applied to the average
9 per-visit rate of all sites for the purposes of calculating the cost
10 associated with a scope-of-service change. "Net change" means
11 the per-visit rate change attributable to the cumulative effect of all
12 increases and decreases for a particular fiscal year.

13 (4) An FQHC or RHC may submit requests for scope-of-service
14 changes once per fiscal year, only within 90 days following the
15 beginning of the FQHC's or RHC's fiscal year. Any approved
16 increase or decrease in the provider's rate shall be retroactive to
17 the beginning of the FQHC's or RHC's fiscal year in which the
18 request is submitted.

19 (5) An FQHC or RHC shall submit a scope-of-service rate
20 change request within 90 days of the beginning of any FQHC or
21 RHC fiscal year occurring after the effective date of this section,
22 if, during the FQHC's or RHC's prior fiscal year, the FQHC or
23 RHC experienced a decrease in the scope of services provided that
24 the FQHC or RHC either knew or should have known would have
25 resulted in a significantly lower per-visit rate. If an FQHC or RHC
26 discontinues providing onsite pharmacy or dental services, it shall
27 submit a scope-of-service rate change request within 90 days of
28 the beginning of the following fiscal year. The rate change shall
29 be effective as provided for in paragraph (4). As used in this
30 paragraph, "significantly lower" means an average per-visit rate
31 decrease in excess of 2.5 percent.

32 (6) Notwithstanding paragraph (4), if the approved
33 scope-of-service change or changes were initially implemented
34 on or after the first day of an FQHC's or RHC's fiscal year ending
35 in calendar year 2001, but before the adoption and issuance of
36 written instructions for applying for a scope-of-service change,
37 the adjusted reimbursement rate for that scope-of-service change
38 shall be made retroactive to the date the scope-of-service change
39 was initially implemented. Scope-of-service changes under this
40 paragraph shall be required to be submitted within the later of 150

1 days after the adoption and issuance of the written instructions by
2 the department, or 150 days after the end of the FQHC's or RHC's
3 fiscal year ending in 2003.

4 (7) All references in this subdivision to "fiscal year" shall be
5 construed to be references to the fiscal year of the individual FQHC
6 or RHC, as the case may be.

7 (f) (1) An FQHC or RHC may request a supplemental payment
8 if extraordinary circumstances beyond the control of the FQHC
9 or RHC occur after December 31, 2001, and PPS payments are
10 insufficient due to these extraordinary circumstances. Supplemental
11 payments arising from extraordinary circumstances under this
12 subdivision shall be solely and exclusively within the discretion
13 of the department and shall not be subject to subdivision (l). These
14 supplemental payments shall be determined separately from the
15 scope-of-service adjustments described in subdivision (e).
16 Extraordinary circumstances include, but are not limited to, acts
17 of nature, changes in applicable requirements in the Health and
18 Safety Code, changes in applicable licensure requirements, and
19 changes in applicable rules or regulations. Mere inflation of costs
20 alone, absent extraordinary circumstances, shall not be grounds
21 for supplemental payment. If an FQHC's or RHC's PPS rate is
22 sufficient to cover its overall costs, including those associated with
23 the extraordinary circumstances, then a supplemental payment is
24 not warranted.

25 (2) The department shall accept requests for supplemental
26 payment at any time throughout the prospective payment rate year.

27 (3) Requests for supplemental payments shall be submitted in
28 writing to the department and shall set forth the reasons for the
29 request. Each request shall be accompanied by sufficient
30 documentation to enable the department to act upon the request.
31 Documentation shall include the data necessary to demonstrate
32 that the circumstances for which supplemental payment is requested
33 meet the requirements set forth in this section. Documentation
34 shall include all of the following:

35 (A) A presentation of data to demonstrate reasons for the
36 FQHC's or RHC's request for a supplemental payment.

37 (B) Documentation showing the cost implications. The cost
38 impact shall be material and significant, two hundred thousand
39 dollars (\$200,000) or 1 percent of a facility's total costs, whichever
40 is less.

1 (4) A request shall be submitted for each affected year.

2 (5) Amounts granted for supplemental payment requests shall
3 be paid as lump-sum amounts for those years and not as revised
4 PPS rates, and shall be repaid by the FQHC or RHC to the extent
5 that it is not expended for the specified purposes.

6 (6) The department shall notify the provider of the department's
7 discretionary decision in writing.

8 (g) (1) An FQHC or RHC "visit" means a face-to-face
9 encounter between an FQHC or RHC patient and a physician,
10 physician assistant, nurse practitioner, certified nurse midwife,
11 clinical psychologist, licensed clinical social worker, or a visiting
12 nurse. For purposes of this section, "physician" shall be interpreted
13 in a manner consistent with the Centers for Medicare and Medicaid
14 Services' Medicare Rural Health Clinic and Federally Qualified
15 Health Center Manual (Publication 27), or its successor, only to
16 the extent that it defines the professionals whose services are
17 reimbursable on a per-visit basis and not as to the types of services
18 that these professionals may render during these visits and shall
19 include a ~~medical doctor, osteopath~~ *physician and surgeon*,
20 podiatrist, dentist, optometrist, and chiropractor. A visit shall also
21 include a face-to-face encounter between an FQHC or RHC patient
22 and a comprehensive perinatal services practitioner, as defined in
23 Section 51179.1 of Title 22 of the California Code of Regulations,
24 providing comprehensive perinatal services, a four-hour day of
25 attendance at an adult day health care center, and any other provider
26 identified in the state plan's definition of an FQHC or RHC visit.

27 (2) (A) A visit shall also include a face-to-face encounter
28 between an FQHC or RHC patient and a dental hygienist or a
29 dental hygienist in alternative practice.

30 (B) Notwithstanding subdivision (e), an FQHC or RHC that
31 currently includes the cost of the services of a dental hygienist in
32 alternative practice for the purposes of establishing its FQHC or
33 RHC rate shall apply for an adjustment to its per-visit rate, and,
34 after the rate adjustment has been approved by the department,
35 shall bill these services as a separate visit. However, multiple
36 encounters with dental professionals that take place on the same
37 day shall constitute a single visit. The department shall develop
38 the appropriate forms to determine which FQHC's or RHC rates
39 shall be adjusted and to facilitate the calculation of the adjusted
40 rates. An FQHC's or RHC's application for, or the department's

1 approval of, a rate adjustment pursuant to this subparagraph shall
2 not constitute a change in scope of service within the meaning of
3 subdivision (e). An FQHC or RHC that applies for an adjustment
4 to its rate pursuant to this subparagraph may continue to bill for
5 all other FQHC or RHC visits at its existing per-visit rate, subject
6 to reconciliation, until the rate adjustment for visits between an
7 FQHC or RHC patient and a dental hygienist or a dental hygienist
8 in alternative practice has been approved. Any approved increase
9 or decrease in the provider's rate shall be made within six months
10 after the date of receipt of the department's rate adjustment forms
11 pursuant to this subparagraph and shall be retroactive to the
12 beginning of the fiscal year in which the FQHC or RHC submits
13 the request, but in no case shall the effective date be earlier than
14 January 1, 2008.

15 (C) An FQHC or RHC that does not provide dental hygienist
16 or dental hygienist in alternative practice services, and later elects
17 to add these services, shall process the addition of these services
18 as a change in scope of service pursuant to subdivision (e).

19 (h) If FQHC or RHC services are partially reimbursed by a
20 third-party payer, such as a managed care entity (as defined in
21 Section 1396u-2(a)(1)(B) of Title 42 of the United States Code),
22 the Medicare Program, or the Child Health and Disability
23 Prevention (CHDP) program, the department shall reimburse an
24 FQHC or RHC for the difference between its per-visit PPS rate
25 and receipts from other plans or programs on a contract-by-contract
26 basis and not in the aggregate, and may not include managed care
27 financial incentive payments that are required by federal law to
28 be excluded from the calculation.

29 (i) (1) An entity that first qualifies as an FQHC or RHC in the
30 year 2001 or later, a newly licensed facility at a new location added
31 to an existing FQHC or RHC, and any entity that is an existing
32 FQHC or RHC that is relocated to a new site shall each have its
33 reimbursement rate established in accordance with one of the
34 following methods, as selected by the FQHC or RHC:

35 (A) The rate may be calculated on a per-visit basis in an amount
36 that is equal to the average of the per-visit rates of three comparable
37 FQHCs or RHCs located in the same or adjacent area with a similar
38 caseload.

39 (B) In the absence of three comparable FQHCs or RHCs with
40 a similar caseload, the rate may be calculated on a per-visit basis

1 in an amount that is equal to the average of the per-visit rates of
2 three comparable FQHCs or RHCs located in the same or an
3 adjacent service area, or in a reasonably similar geographic area
4 with respect to relevant social, health care, and economic
5 characteristics.

6 (C) At a new entity's one-time election, the department shall
7 establish a reimbursement rate, calculated on a per-visit basis, that
8 is equal to 100 percent of the projected allowable costs to the
9 FQHC or RHC of furnishing FQHC or RHC services during the
10 first 12 months of operation as an FQHC or RHC. After the first
11 12-month period, the projected per-visit rate shall be increased by
12 the Medicare Economic Index then in effect. The projected
13 allowable costs for the first 12 months shall be cost settled and the
14 prospective payment reimbursement rate shall be adjusted based
15 on actual and allowable cost per visit.

16 (D) The department may adopt any further and additional
17 methods of setting reimbursement rates for newly qualified FQHCs
18 or RHCs as are consistent with Section 1396a(bb)(4) of Title 42
19 of the United States Code.

20 (2) In order for an FQHC or RHC to establish the comparability
21 of its caseload for purposes of subparagraph (A) or (B) of paragraph
22 (1), the department shall require that the FQHC or RHC submit
23 its most recent annual utilization report as submitted to the Office
24 of Statewide Health Planning and Development, unless the FQHC
25 or RHC was not required to file an annual utilization report. FQHCs
26 or RHCs that have experienced changes in their services or
27 caseload subsequent to the filing of the annual utilization report
28 may submit to the department a completed report in the format
29 applicable to the prior calendar year. FQHCs or RHCs that have
30 not previously submitted an annual utilization report shall submit
31 to the department a completed report in the format applicable to
32 the prior calendar year. The FQHC or RHC shall not be required
33 to submit the annual utilization report for the comparable FQHCs
34 or RHCs to the department, but shall be required to identify the
35 comparable FQHCs or RHCs.

36 (3) The rate for any newly qualified entity set forth under this
37 subdivision shall be effective retroactively to the later of the date
38 that the entity was first qualified by the applicable federal agency
39 as an FQHC or RHC, the date a new facility at a new location was
40 added to an existing FQHC or RHC, or the date on which an

1 existing FQHC or RHC was relocated to a new site. The FQHC
2 or RHC shall be permitted to continue billing for Medi-Cal covered
3 benefits on a fee-for-service basis until it is informed of its
4 enrollment as an FQHC or RHC, and the department shall reconcile
5 the difference between the fee-for-service payments and the
6 FQHC's or RHC's prospective payment rate at that time.

7 (j) Visits occurring at an intermittent clinic site, as defined in
8 subdivision (h) of Section 1206 of the Health and Safety Code, of
9 an existing FQHC or RHC, or in a mobile unit as defined by
10 paragraph (2) of subdivision (b) of Section 1765.105 of the Health
11 and Safety Code, shall be billed by and reimbursed at the same
12 rate as the FQHC or RHC establishing the intermittent clinic site
13 or the mobile unit, subject to the right of the FQHC or RHC to
14 request a scope-of-service adjustment to the rate.

15 (k) An FQHC or RHC may elect to have pharmacy or dental
16 services reimbursed on a fee-for-service basis, utilizing the current
17 fee schedules established for those services. These costs shall be
18 adjusted out of the FQHC's or RHC's clinic base rate as
19 scope-of-service changes. An FQHC or RHC that reverses its
20 election under this subdivision shall revert to its prior rate, subject
21 to an increase to account for all MEI increases occurring during
22 the intervening time period, and subject to any increase or decrease
23 associated with applicable scope-of-services adjustments as
24 provided in subdivision (e).

25 (l) FQHCs and RHCs may appeal a grievance or complaint
26 concerning ratesetting, scope-of-service changes, and settlement
27 of cost report audits, in the manner prescribed by Section 14171.
28 The rights and remedies provided under this subdivision are
29 cumulative to the rights and remedies available under all other
30 provisions of law of this state.

31 (m) The department shall, by no later than March 30, 2008,
32 promptly seek all necessary federal approvals in order to implement
33 this section, including any amendments to the state plan. To the
34 extent that any element or requirement of this section is not
35 approved, the department shall submit a request to the federal
36 Centers for Medicare and Medicaid Services for any waivers that
37 would be necessary to implement this section.

38 (n) The department shall implement this section only to the
39 extent that federal financial participation is obtained.

1 ~~SEC. 97.~~

2 *SEC. 98.* Section 1.5 of this bill incorporates amendments to
3 Section 27 of the Business and Professions Code proposed by both
4 this bill and SB 1402. It shall only become operative if (1) both
5 bills are enacted and become effective on or before January 1,
6 2009, (2) each bill amends Section 27 of the Business and
7 Professions Code, and (3) this bill is enacted after SB 1402, in
8 which case Section 1 of this bill shall not become operative.

9 ~~SEC. 98.~~

10 *SEC. 99.* (a) Section 2.3 of this bill incorporates amendments
11 to Section 101 of the Business and Professions Code proposed by
12 both this bill and SB 853. It shall only become operative if (1) both
13 bills are enacted and become effective on or before January 1,
14 2009, (2) each bill amends Section 101 of the Business and
15 Professions Code, (3) SB 823 is not enacted or as enacted does
16 not amend that section, and (4) this bill is enacted after SB 853,
17 in which case Section 101 of the Business and Professions Code,
18 as amended by Section 2 of this bill, shall remain operative only
19 until July 1, 2009, at which time Section 2.3 of this bill shall
20 become operative, and Section 2.5 of this bill shall not become
21 operative.

22 (b) Section 2.5 of this bill incorporates amendments to Section
23 101 of the Business and Professions Code proposed by this bill,
24 SB 853, and SB 823. It shall become operative if (1) both this bill
25 and SB 823, or all three bills, are enacted and become effective
26 on or before January 1, 2009, (2) each bill amends Section 101 of
27 the Business and Professions Code, and (3) this bill is enacted last,
28 in which case Section 101 of the Business and Professions Code,
29 as amended by SB 823, shall remain operative only until the
30 operative date of this bill, at which time Section 2.5 of this bill
31 shall become operative, and Sections 2 and 2.3 of this bill shall
32 not become operative.

33 ~~SEC. 99.~~

34 *SEC. 100.* Section 5.5 of this bill incorporates amendments to
35 Section 146 of the Business and Professions Code proposed by
36 this bill and SB 823. It shall only become operative if (1) both bills
37 are enacted and become effective on or before January 1, 2009,
38 (2) each bill amends Section 146 of the Business and Professions
39 Code, and (3) this bill is enacted after SB 823, in which case
40 Section 146 of the Business and Professions Code, as amended by

1 SB 823, shall remain operative only until the operative date of this
2 bill, at which time Section 5.5 of this bill shall become operative,
3 and Section 5 of this bill shall not become operative.

4 ~~SEC. 100.~~

5 *SEC. 101.* Section 6.5 of this bill incorporates amendments to
6 Section 149 of the Business and Professions Code proposed by
7 this bill and SB 823. It shall only become operative if (1) both bills
8 are enacted and become effective on or before January 1, 2009,
9 (2) each bill amends Section 149 of the Business and Professions
10 Code, and (3) this bill is enacted after SB 823, in which case
11 Section 149 of the Business and Professions Code, as amended by
12 SB 823, shall remain operative only until the operative date of this
13 bill, at which time Section 6.5 of this bill shall become operative,
14 and Section 6 of this bill shall not become operative.

15 ~~SEC. 101.~~

16 *SEC. 102.* Section 10 of this bill, which amends Section 801
17 of the Business and Professions Code, shall not become operative
18 if (1) SB 1402 is enacted and becomes effective on or before
19 January 1, 2009, (2) each bill amends Section 801 of the Business
20 and Professions Code, and (3) this bill is enacted after SB 1402.

21 *SEC. 103.* *Section 24.5 of this bill incorporates amendments*
22 *to Section 2221 of the Business and Professions Code proposed*
23 *by both this bill and AB 2445. It shall only become operative if (1)*
24 *both bills are enacted and become effective on or before January*
25 *1, 2009, (2) each bill amends Section 2221 of the Business and*
26 *Professions Code, and (3) this bill is enacted after AB 2445, in*
27 *which case Section 24 of this bill shall not become operative.*

28 ~~SEC. 102.~~

29 *SEC. 104.* Section 66 of this bill, which amends Section
30 4980.03 of the Business and Professions Code, shall not become
31 operative if (1) SB 1218 is enacted and becomes effective on or
32 before January 1, 2009, (2) each bill amends Section 4980.03 of
33 the Business and Professions Code, and (3) this bill is enacted after
34 SB 1218.

35 ~~SEC. 103.~~

36 *SEC. 105.* Section 69.5 of this bill incorporates amendments
37 to Section 4980.43 of the Business and Professions Code proposed
38 by both this bill and SB 1218. It shall only become operative if
39 (1) both bills are enacted and become effective on or before January
40 1, 2009, (2) each bill amends Section 4980.43 of the Business and

1 Professions Code, and (3) this bill is enacted after SB 1218, in
2 which case Section 69 of this bill shall not become operative.

3 ~~SEC. 104.~~

4 *SEC. 106.* No reimbursement is required by this act pursuant
5 to Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.